A Guide to

Changing Child Support Orders

in Manitoba

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INTRODUCTION

This guide is intended to help a parent apply to Court in Manitoba to change a Child Support Order. It is for parents who pay child support and for parents who receive child support. This guide contains information on the courts' requirements and procedures for Child Support variations as of November 1, 2002.

There are many reasons to hire a lawyer to help you apply to Court to change a Child Support Order. Lawyers know the law and Court processes. Lawyers can give you advice about whether or not it's a good idea to apply to Court to change your Child Support Order. Lawyers can help keep the costs of your case down and know the legal strategies that can help your case.

This guide is not a substitute for a lawyer. It does not give you any legal advice. It does not help you decide if you should go ahead with the Court process or decide how to proceed. It does not give information about all possible Court processes that you may need.

This guide contains only basic information about the Court processes and documents needed to apply to Court to change a Child Support Order in Manitoba. The process is complicated and this guide does not answer every question that you may have.

To find more information about the law of child support and family law, in general, get a copy of *Family Law in Manitoba* and the *Federal Child Support Guidelines: The Complete Workbook*. These are free and can be obtained through:

- Community Legal Education Association
- Manitoba Justice Family Law Branch
- Family Conciliation, Family Services and Housing
- Justice Canada

Look in **Part D** for how to contact these organizations to get copies of these booklets.

This guide contains information only, not legal advice. It is not judge-approved or lawyer-approved. Using it does not guarantee that you will succeed in Court.

This guide has been created to permit those applying to Court to change a Child Support Order to have access to the same information about how to do it and to help make the Court process more efficient. If everyone knows the process and the rules before they come to Court, it saves Court time.

You have a right to represent yourself in Court if you want. But you should know that with this right comes the **responsibility to follow the rules of Court and Court process.**

Before you decide to use this guide, ask a lawyer what it would cost to represent you. You have the right to go to Court without a lawyer to represent you, but you need to know

that in Court, you will be treated the same as a person who has a lawyer. Do not expect any special or different treatment because you don't have a lawyer. **If you do not know and follow the Court rules, you will have to live with the consequences.**

For help finding a lawyer:

- call the Lawyer Referral Program and get a free 30 minute appointment with a lawyer - call (204) 943-2305 in Winnipeg or 1-800-262-8800 outside Winnipeg
- check the *Yellow Pages* listings
- speak to friends or family for recommendations

Even if you decide not to use a lawyer to represent you, you still should consult a lawyer before you use this guide.

If you use this guide, you are expected to:

- **read the whole guide**
- **be familiar with the Court rules that apply**
- **follow the Court rules that apply**
- **be familiar with the laws that apply, including the *Divorce Act, The Family Maintenance Act* and *The Child Support Guidelines.***
- **follow the laws that apply**

PART A

Child Support Orders in Manitoba

What is a Child Support Order?

Child support is money paid by one parent to the other when the parents do not live together. It is paid to help with the support of the child or children living with the other parent.

When parents do not live together, and a parent applies to Court for child support, the Court can order or require that one parent make child support payments to the other parent. This kind of Court Order is a Child Support Order.

In Manitoba, there are two laws that allow the Court to make a Child Support Order. These laws are:

1. The *Divorce Act*
2. *The Family Maintenance Act*

If you are or were married to the other parent, your Child Support Order can be made under either of these laws. If you were never married to the other parent, the Child Support Order can only be made under *The Family Maintenance Act.*

Both *The Divorce Act* and *The Family Maintenance Act* have *Child Support Guidelines* to help parents and the Courts decide how much child support should be paid.

What are *Child Support Guidelines*?

Child Support Guidelines are rules that the Court must follow in deciding how much child support to order. The *Child Support Guidelines* include *Tables* that are used to figure out a child support amount. The child support amount is based on:

- the income of the parent paying support
- the province where the paying parent lives
- the number of children for whom child support is paid

In some cases, the child support amount also includes an extra amount for some kinds of special expenses that children may have. Only the parent who receives child support can ask for an extra amount for special expenses.

When do the *Child Support Guidelines* apply?

Since May 1, 1997, the *Child Support Guidelines* apply to all Child Support Orders under the *Divorce Act.* Starting June 1, 1998, the *Child Support Guidelines* apply to all Child Support Orders under *The Family Maintenance Act.*

What if my Child Support Order was made before the *Child Support Guidelines*?

The *Child Support Guidelines* can also apply to Child Support Orders made before these dates. If you want the *Child Support Guidelines* to apply to your Child Support Order that was made:

- under the *Divorce Act* before May 1, 1997
- under *The Family Maintenance Act* before June 1, 1998

you must apply to the Court to change, or vary the Child Support Order.

Before May 1, 1997, child support paid under a Child Support Order was tax-deductible to the paying parent, and had to be included in the income of the parent receiving the support. If you only want to change how the child support amount is treated for tax reasons, without changing the child support amount, both parents may file a document with Canada Customs and Revenue Agency (CCRA). To do this, both parents must complete and sign **CCRA Form T1157, Election for Child Support Payments**, and file this document with CCRA. For more information, call 1-800-959-8281 or visit the CCRA web site at: http:// www.ccra-adrc.gc.ca

For what reasons can I apply to vary a Child Support Order?

Varying a Court Order means changing the Court Order. You can only apply to the Court to vary your Child Support Order for two reasons:

1. Your Child Support Order was made before the *Child Support Guidelines* came into effect.
2. Your Child Support Order was made under the *Child Support Guidelines* and there has been a change in circumstances since the time that Order was made, so that a different child support amount would now result.

There are many kinds of changes in circumstances. Some examples of a change in circumstances are:

- increase in the income of the parent paying support
- decrease in the income of the parent paying support
- change in the number of children supported
- change to a child's special expenses
- change to the timesharing arrangements, or primary care of child

You can only apply to the Court to vary your Child Support Order if one of these reasons applies to you.

How do I know if there's been a change in circumstances?

If you receive child support, you can ask for financial information from the other parent once each year. You need this information to decide if you should apply to Court to vary your Child Support Order.

If you pay child support, you may be asked to give financial information to the other parent.

If you pay child support and want to vary the Child Support Order, you can ask the other parent for financial information only if:

- the Child Support Order includes an amount for ***special expenses***
- you are claiming *undue hardship*
- there is *split custody* or *shared custody* of the child
- a child for whom support is paid is 18 years of age or older
- your income is more than $150,000 per year

Special expenses or extraordinary expenses are certain kinds of extra costs for a child that fit into the following categories:

1. child care expenses
2. health-related expenses above any insurance coverage
3. extraordinary expenses for primary or secondary school or other educational programs that the child needs
4. post-secondary education programs
5. extraordinary expenses for extracurricular activities

The parent who receives child support can ask the other parent to contribute to these kind of special expenses. If parents can't agree, they can ask the court to make an Order to pay special expenses, plus the table amount of child support. When a parent asks for special expenses, both parents have to provide financial information.

Undue hardship means that the court has decided that it would cause undue hardship (extra difficulty) to require the paying parent to pay the table amount plus special expenses. The hardship can be for either the paying parent or the receiving parent. When a parent says that there would be undue hardship, financial information is needed for each member of each household.

Split custody means that each parent has custody or primary care of one or more of their children together. In this situation, both parents have to provide financial information.

Shared custody means that each parent has custody or primary care of a child at least 40% of the time each year. In this situation, both parents have to provide financial information.

What kind of information can I ask for?

Parents can ask for the following financial information:

- ❑ sworn financial statement in Form 70D of the *Court of Queen's Bench Rules*
- ❑ copy of every personal income tax return filed by the other parent for each of the three most recent tax years
- ❑ copy of every notice of assessment or reassessment issued to the other parent by Canada Customs and Revenue Agency for each of the three most recent tax years
- ❑ **if the other parent is an employee**, his/her most recent statement of earnings showing the total earnings paid in the year to date, including overtime, or a letter from the parent's employer setting out that information including the parent's rate of annual salary or pay
- ❑ **if the other parent is self-employed**, the financial statements of the parent's business or professional practice, other than a partnership, and a statement showing a breakdown of all salaries, wages, management fees or other payments and benefits paid to people or businesses that the other parent is somehow related to, for each of the three most recent tax years
- ❑ **if the other parent is a partner in a partnership**, confirmation of that parent's income and draw from, and capital invested in the partnership, for each of the three most recent tax years
- ❑ **if the other parent controls a corporation**, the financial statements of the corporation and it's subsidiaries, and a statement showing a breakdown of all salaries, wages, management fees or other payments and benefits paid to people or businesses that the other parent is somehow related to, for each of the three most recent tax years
- ❑ **if the other parent receives benefits from employment insurance, social assistance, a pension, workers compensation, disability payments or any other source**, the most recent statement of income that shows the total amount received from that source in the year or a letter from the provider of the benefits setting out that information
- ❑ **if the other parent is a beneficiary under a trust**, a copy of the trust settlement agreement and copies of the trust's three most recent financial statements
- ❑ **if the current Child Support Order includes an Order for special expenses**, any current information, in writing, about these special expenses
- ❑ **if the current Child Support Order was made by the Court based on a finding of undue hardship**, any current information, in writing, about the circumstances relied on by the Court in finding an undue hardship

If you already have given this information to the other parent, or have already received this information from the other parent, it does not have to be provided again, unless there is a Court Order.

If you have already received the information you need from the other parent, skip ahead to **Part B**.

How do I ask for the financial information?

The *Child Support Guidelines* say that you must ask for financial information in writing. You can send or deliver a letter to the other parent. Keep a copy of the letter for your own records. If you think you need proof that you sent the letter, use registered or certified mail to send it.

Ask for the financial information that you need to figure out the child support amount using the *Child Support Guidelines*. Use the checklist on Page 11 as a guide. The letter may be from you personally or from someone asking on your behalf such as a lawyer.

How long do I wait for an answer?

The *Child Support Guidelines* say the other parent must get you the financial information requested in writing in:

- 30 days after the request is received, if the other parent lives in Canada
- 60 days after the request is received, if the other parent lives outside Canada

The *Child Support Guidelines* say you can assume that your written request is received 10 days after it is sent. It is important to keep a record of the date that you send the request.

If you do not get the financial information from the other parent, you can apply for a Court Order to get the information. **Part B** gives you information on how to do this.

What do I do with the financial information?

The financial documents you get from the other parent should provide you with the information you need to calculate the annual income of the other parent.

To calculate the appropriate child support amount, you need to know:

1. the annual income of the paying parent according to the *Child Support Guidelines*
2. the number of children for whom support is paid
3. the province or territory where the paying parent lives

Using the *Child Support Guidelines* and the information you have received from the other parent, you can calculate how much child support you should pay or receive.

If the paying parent lives in Canada, but does not live in Manitoba, use the *Child Support Guidelines* Table for the province or territory where the paying parent is living. Call toll-free to 1-888-373-2222 for a copy of the appropriate table to be sent to you.

When you have calculated the child support amount based on the *Child Support Guidelines*, talk to the other parent about changing the child support to this amount. **Part B** gives you information about how to apply to Court to change a Child Support Order.

Don't talk to the other parent if there are protection or prevention Orders or any other Court Orders that prevent you from speaking to the other parent. If there has been violence between you and the other parent in the past, think carefully about whether you will be safe if you talk to the other parent about changing the Child Support Order, and whether it may be better to have a lawyer to whom the other parent may speak to if that is necessary.

What if the change in circumstances happened a year ago?

The law lets you apply to change a Child Support Order any time there is a change in circumstances. A judge can make a change to your Child Support Order on a retroactive basis. However in some cases, a judge may only be prepared to make changes to Child Support Orders that date back to the day that you filed the documents in court to ask for that change. This means that you need to apply to court as soon as possible after a change happens so that the Child Support Order can be changed as soon as possible.

What if the other parent lives outside Manitoba?

If the other parent lives outside Manitoba, you can use the Court processes described in **Part B** to apply to change your Child Support Order if that parent agrees to use the Manitoba Court. If you start with the Court processes in **Part B** and the other parent doesn't agree to use the Manitoba Court, there are other special processes that you can use to apply to change your Child Support Order. These processes are described in the *Divorce Act* and *The Inter-jurisdictional Support Orders Act*.

These special processes allow you to start the Court application in Manitoba without letting the other parent know about the process. Then, in most cases, a Court located where the other parent lives decides your application, taking into account the evidence you have submitted, which will be sent from Manitoba and the evidence submitted by the other parent when they were notified of the court hearing in their province. For more information about these processes, contact the Manitoba Justice Family Law Branch or web site at www.gov.mb.ca/justice/family/iso forms.html

What if I owe money for child support payments?

If you have fallen behind in making child support payments, the amount you owe is called *arrears*.

If you are paying child support through the Maintenance Enforcement Program, there are a number of ways the program can try to collect the child support arrears. You can try to work out a payment plan with the maintenance enforcement officer or through the Maintenance Enforcement Court.

It is important to know that the maintenance enforcement officer or the Maintenance Enforcement Court can't change the amount of child support or reduce or forgive the arrears.

If you want to change a child support amount, you must apply to the Court that made the Child Support Order. If you want to ask for arrears of child support to be reduced or forgiven, you must apply to the Court that made the Child Support Order. At the same time, you can ask the Court to *suspend*, or put on hold the Maintenance Enforcement action until the Court hears and decides your application to vary the Child Support Order and forgive the arrears. If you don't ask for suspension of the Maintenance Enforcement process, enforcement of the Child Support Order will continue during the variation process.

Where can I get more information about child support?

For more information about the *Child Support Guidelines*, contact:

- Federal Department of Justice
  - Web site: http://canada.justice.gc.ca
  - Telephone: For general information on child support or to receive copies of publications, call:
    National Capital Region: (613) 946-2222
    Canada: 1-888-373-2222

- Law Phone-In and Lawyer Referral Service
  - Telephone: In Winnipeg: (204) 943-2305
  - In Manitoba: 1-800-262-8800
  - E-mail: info@communitylegal.mb.ca
- Manitoba Justice
  - Family Law Branch web site: www.gov.mb.ca/justice/family/familyindex.html
  - Telephone: In Winnipeg: (204) 945-0268
  - Toll-free: 1-800-282-8069 (Ext. 0268)
- Manitoba Statutory Publications
  - Web site: www.gov.mb.ca/chc/statpub/free/index.html
  - Telephone: In Winnipeg: (204) 945-3101
  - Toll-free: 1-800-321-1203
- Community Legal Education Association
  - Web site: www.acjnet.org/white/clea
  - Telephone: (204) 943-2382
- For more information about the Maintenance Enforcement Program:
  - Web site: www.gov.mb.ca/justice/family/familyindex.html
  - Telephone: In Winnipeg: (204) 945-7133
  - Toll-free: 1-800-282-8069
- Manitoba Courts
  - Web site: www.manitobacourts.mb.ca
- Manitoba Laws
  - Web site: www.gov.mb.ca/laws

Part D includes a list of more resources to help you.

PART B

Procedure and Rules in Court of Queen's Bench
(Family Division)

There are a number of steps to take in the process of varying, or changing a Child Support Order. These steps are required by law, and are set out in the *Court of Queen's Bench Rules.*

For complete information about preparing documents for the Court of Queen's Bench, read the *Court of Queen's Bench Rules.* These rules can be purchased through Manitoba's Statutory Publications:

Statutory Publications
200 Vaughan Street
Winnipeg, MB R3C 1T5
945-3101
Fax: 945-7172
Toll-free: 1-800-321-1203

The rules can also be found in your local Court library, at the University of Manitoba Law Library, and on the Internet at: www.gov.mb.ca/chc/statpub/free/index.html

This guide will take you through the basic steps to vary a Child Support Order. **You may not need to follow each step, so watch for the checklists at the beginning of each step to decide if you should continue where you are, go back, or skip ahead to another step.**

The steps to vary a Child Support Order in this Guide are:

- ❑ Step One: Representing Yourself
- ❑ Step Two: Applying for a Court Order for Financial Information
- ❑ Step Three: Applying to Vary a Child Support Order
- ❑ Step Four: Applying to Vary a Child Support Order (When Both Parents Agree)
- ❑ Step Five: Preparing an Affidavit
- ❑ Step Six: Transferring a Court File
- ❑ Step Seven: Filing Documents in Court
- ❑ Step Eight: Case Management
- ❑ Step Nine: Serving Documents
- ❑ Step Ten: Responding to a Notice of Motion to Vary Child Support
- ❑ Step Eleven: Family Motions Court
- ❑ Step Twelve: Representing Yourself in an Uncontested Hearing
- ❑ Step Thirteen: Representing Yourself in a Contested Hearing
- ❑ Step Fourteen: Preparing the Order

You have a right to represent yourself in Court if you want. But remember that with this right comes the **responsibility to follow the rules of Court and Court process.**

You have the right to go to Court without a lawyer to represent you, but you need to know that in Court, you will be treated the same as a person who has a lawyer. Do not expect any special or different treatment because you don't have a lawyer. **If you do not know and follow the Court rules, you will have to live with the consequences.**

If you want to find a lawyer:

- call the Lawyer Referral Program and get a free 30-minute appointment with a lawyer: (204) 943-2305 in Winnipeg or 1-800-262-8800 outside Winnipeg
- check the *Yellow Pages* listings
- speak to friends or family for recommendations

Even if you decide not to use a lawyer to represent you, you still should consult a lawyer before you use this guide.

Remember that if you use this guide, you are expected to:

- **read the whole guide**
- **be familiar with the *Court of Queen's Bench Rules* that apply**
- **follow the *Court of Queen's Bench Rules* that apply**
- **be familiar with the laws that apply, including *The Divorce Act, The Family Maintenance Act* and the *Child Support Guidelines.***
- **follow the laws that apply**

Step One: Representing Yourself

❑ Have you decided to represent yourself, instead of hiring a lawyer or applying for Legal Aid?

❑ Did you have a lawyer in the most recent or last Court process between you and the other parent? If not, skip ahead to **Step Two, Applying for a Court Order for Financial Information.**

When you have a lawyer represent you in Court that lawyer becomes your *lawyer of record* with the Court. This means that the Court assumes this person is still your lawyer until:

- the Court makes a Final Order or Judgment or
- you advise the Court of a change

If the Court has not made a Final Order or Judgment and you had a lawyer before, you have to file a document called a **Notice of Intention to Act in Person so the Court knows your lawyer is no longer involved. If the Court has made a Final Order or Judgment, then you do not need to file a Notice of Intention to Act in Person.**

Part C includes an example of a **Notice of Intention to Act in Person**. This is a document that you have to create, following the format in the example. Make sure you read and follow the Rules for Preparing Court Documents found in **Part C**.

The form of the Notice of Intention to Act in Person is found in *Court of Queen's Bench Rule* 15 (Form 15C).

Make at least three copies of the Notice of Intention to Act in Person. You have to *serve*, or deliver copies of this document to:

- the lawyer that represented you last
- the other parent, or his/her lawyer

Read **Step Nine, Serving Documents** for how to serve a document and how to prove you've done it.

After you serve each person that must be served, file the Notice of Intention to Act in Person and the proof of service in Court. Read **Step Seven, Filing Documents in Court** for how to file documents in Court.

You can't go on with the process to vary the Child Support Order until after you complete this step. If you are having difficulty with this step, consider retaining the services of a lawyer, as matters become more complicated, not less so.

Step Two: Applying for a Court Order for Financial Information

❑ Do you have the financial information you need from the other parent? If so, skip ahead to **Step Three, Applying to Vary a Child Support Order**.

❑ If you're not sure, go back and review the checklist on Page 12. Do you have all the information that you need? If so, skip ahead to **Step Three, Applying to Vary a Child Support Order**.

❑ If you don't have all the information you need from the other parent, make sure you have sent a letter to the other parent asking for the information you need. If not, go back to **Part A: How do I ask for the financial information?** You need to make a written request for the information before you apply for a Court Order for the information.

How do I get a Court Order for financial information?

If the other parent doesn't give you the financial information you asked for in your letter, apply for a Court Order that says the other parent must provide the information to you.

The Court can make this Order **without notice** to the other parent. This means you don't have to let the other parent know you have applied for the Order.

To get a Court Order for the other parent to provide you with financial information, you need to prepare two documents:

1. Notice of Motion
2. Affidavit

These documents are filed in the Court so that you can have a hearing before a judge to decide if you will get the Order.

If your name has changed since the last Court process between you and the other party, you need to prepare and file a **Notice of Change of Name** with supporting identifying certificate before filing any other documents. The Notice of Change of Name is a Court document that you must prepare following the *Court of Queen's Bench Rule* 70.44 and Form 70AA. An example of the Notice of Change of Name is included in Part C.

File the Notice of Change of Name in the Court office. For help on how to file Court documents, read **Step Seven, Filing Documents in Court**. Serve the Notice of Change of Name on the other party or their lawyer. For help on how to serve Court documents, read **Step Nine, Serving Documents**.

A Notice of Motion is a document that lets the Court know what kind of Court Order you are asking for. It also sets the date and time when you will be heard by a judge.

Part C includes an example of a Notice of Motion. This is a document that you have to create following the format in the example. Make sure you read and follow the **Rules for Preparing Court Documents** found in **Part C**. The form for a Notice of Motion is found in *Court of Queen's Bench Rule* 70.18 Form 70Q.

A Notice of Motion has 4 paragraphs. The first paragraph says who is making the Motion. Is it the petitioner or the respondent? Is the Motion made to a judge or to a master? When and where will the Motion be heard? All of this information must be filled in the first paragraph of the Notice of Motion.

A **master** is an officer of the Court of Queen's Bench in Manitoba who has authority to make Orders about procedure during a court proceeding and other Orders as set out in the *Court of Queen's Bench Rules*.

The second paragraph says what the Motion is for. This is where you ask for the Court Order to require that the other parent must provide you with certain financial information. Be sure to list the specific information that you need from the other parent.

When the Notice of Motion is to take place without letting the other parent know about the hearing, or giving notice, the second paragraph must also ask for a Court Order that the Motion will be heard without notice to the other parent.

The third paragraph sets out the legal basis for the Motion. In other words, what laws are you relying on to ask for the Court Order? List the statute laws under which your Child Support Order was made. This could include:

The *Divorce Act*

The Family Maintenance Act

The Court of Queen's Bench Act and Court of Queen's Bench Rules

The fourth paragraph lists the documentary evidence you will rely on at the hearing. This means the

Affidavit or Affidavits that you will file to support your Motion. List the Affidavit as:

> Affidavit of [insert name of person swearing Affidavit], sworn [insert date Affidavit is sworn].

The Notice of Motion is dated with the date that you file it in Court and lists your name, address and telephone number. It is addressed to the other parent or his/her lawyer.

Every document filed in Court must have a cover page except for orders. The form of a cover page is found in *Court of Queen's Bench Rule* 4 and Form 4C. **Part C** includes an example of a cover page.

Once you have prepared your Notice of Motion, skip ahead to **Step Five, Preparing an Affidavit**.

Step Three: Applying to Vary a Child Support Order

- ❑ Do you have the financial information you need from the other parent? If not, go back to **Step Two, Applying for a Court Order for Financial Information**. If you're not sure, go back and review the checklist on Page 11. If you don't have all the information that you need, go back to **Step Two, Applying for a Court Order for Financial Information**.
- ❑ Do you and the other parent agree about the change to the Child Support Order that you want to make? Do you both agree to what the amount of child support should be? If so, skip ahead to **Step Four, Applying to Vary a Child Support Order (When Both Parents Agree)**.

How do I apply to vary a Child Support Order?

To apply to change or vary a Child Support Order, there are at least two documents that you need to prepare. These are:

1. Notice of Motion to Vary
2. Affidavit

These documents are filed in the Court so that you can have a hearing before a judge to decide if the Child Support Order will be changed.

A Notice of Motion to Vary is a document that lets the Court know what kind of Court Order you are asking to change. It also sets the date and time when you will be heard by a judge.

Part C includes an example of a Notice of Motion to Vary. This is a document that you have to create, following the format in the example. Make sure you read and follow the Rules for Preparing Court Documents found in **Part C**.

> **If your name has changed** since the last Court process between you and the other party, you need to prepare and file a **Notice of Change of Name** with supporting identifying certificate before filing any other documents. The Notice of Change of Name is a Court document that you must prepare following the *Court of Queen's Bench Rule* 70.44 and Form 70AA. An example of the Notice of Change of Name is included in Part C.
>
> File the Notice of Change of Name in the Court office. For help on how to file Court documents, read **Step Seven, Filing Documents in Court**. Serve the Notice of Change of Name on the other party or their lawyer. For help on how to serve Court documents, read **Step Nine, Serving Documents**.

Before you begin to prepare any documents, make sure that you have a copy of the Order or Judgment setting the current amount of child support. If the original Order or Judgment has been changed or varied before, you also need to have copies of all earlier Variation Orders. If you do not have a copy of the Order or Judgment, you can get a copy at the office of the Court of Queen's Bench where your Order or Judgment was made. There is a charge for making copies at the Court office.

The form of a Notice of Motion to Vary is found in *Court of Queen's Bench Rule* 70.03(7) Form 70H. A Notice of Motion to Vary must follow Form 70H.

At the beginning of the Notice of Motion to Vary you have to set out the full name and address of the other parent, including the postal code.

The first paragraph of the Notice of Motion to Vary says who is making the Motion. Is it the petitioner or the respondent? When will the Motion be heard? In Winnipeg Centre, the first Court date will be on a Tuesday morning at 9 a.m. In Brandon Centre, the first Court date will be on a Monday morning at 9 a.m. Outside of Winnipeg Centre, check with the Court of Queen's Bench office as to when the next date will be for family motions to be heard. Where will the Motion be heard? You must file your Motion in the same Court of Queen's Bench centre where the Child Support Order was made, or last varied. Fill in the address of the Court of Queen's Bench office in the first paragraph. All of this information must be filled in the first paragraph of the Notice of Motion.

If you want to file your Notice of Motion to Vary in a different Manitoba Court of Queen's Bench Centre and you or the other parent live in or near that centre, you can ask the Court to **transfer your Court file** to the other centre. Read **Step Six, Transferring a Court File** for information on how to do this.

The second paragraph says which kind of Court Order you are applying to change. Fill in the kind of Order (for example, Child Support Order). Then fill in the name of the judge that made the Order, name of the Court, province and date that the Order was made. Do this for each Order that you need varied.

The third paragraph remains the same. It tells the other parent how to respond after receiving the document.

The next two paragraphs are included only if the Child Support Order that you want to vary was made under the *Divorce Act*. Set these out exactly as shown in Form 70H. If your Child Support Order was not made under the *Divorce Act*, do not include these paragraphs.

The next two paragraphs of the Notice of Motion to Vary must say:

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE MOTION, you or a Manitoba lawyer acting for you must serve a copy of the evidence on the moving party's lawyer or, where the moving party does not have a lawyer, serve it on the moving party, and file it in the court office where the motion is to be heard as soon as possible, but not later than 2:00 p.m. on a day that is at least seven days before the hearing.

IF YOU FAIL to appear at the hearing, an order may be given in your absence and without further notice to you.

This information lets the other parent know their rights and responsibilities in response to your Notice of Motion to Vary.

Next, you set out the details of the changes you are asking for. List these in separate, numbered paragraphs. For a change to a Child Support Order, you must say whether you are asking for an amount that is:

- the table amount from the *Child Support Guidelines*
- an amount for special or extraordinary expenses, as defined in the *Child Support Guidelines*
- a different amount

If you are also asking the Court to make any other Orders, such as to *remit*, or reduce arrears of child support, list those requests here in separate numbered paragraphs.

If your Motion asks to reduce or forgive arrears of child support, and you are also appearing in Maintenance Enforcement Court, you can also ask the Court to *suspend* or put on hold the Maintenance Enforcement Court proceedings.

If you don't ask for this, you will have to continue to attend Maintenance Enforcement Court and any other enforcement proceedings will also continue. That process doesn't stop or get put on hold just because you file a Notice of Motion to Vary. There has to be a Court Order to suspend that process until the Notice of Motion to Vary is decided.

To deal with arrears and/or suspend enforcement you must in addition to serving the other parent, serve a Director of Field Services, Employment and Income Assistance or his or her authorized representative at 305-114 Garry Street, Winnipeg, Manitoba R3C 4V7.

The next page of the Notice of Motion to Vary begins with the heading Financial Information. Under this heading, the first paragraph says:

> Attached is the petitioner's financial statement (Form 70D).

This paragraph is only included if you need to include a financial statement. *Court of Queen's Bench Rules* 70.05 and 70.37(6) tell you when you need to file a financial statement with the Notice of Motion to Vary. **Step Five, Preparing an Affidavit** tells you how and when to prepare a financial statement.

If you are asking to change a Child Support Order made under the *Divorce Act* and you or the other parent live outside Manitoba, add the following paragraph:

> Attached is the moving party's affidavit containing the documents required under section 21 of the *Federal Child Support Guidelines*.

The last paragraph of the Notice of Motion to Vary lists the documentary evidence you will use at the hearing. This means the Affidavit or Affidavits you will file to support your Motion. List each Affidavit as:

> Affidavit of [insert name of person swearing Affidavit], sworn [insert date Affidavit is sworn].

If there is more than one Affidavit you are relying on, list each on a separate line in the same way as the example.

You sign your name at the end of the Notice of Motion to Vary, and list your name, address, telephone number, fax number and E-mail address.

Every document filed in Court must have a cover page except for orders. The form of a cover page is found in *Court of Queen's Bench Rule* 4 and Form 4C. **Part C** includes an example of a cover page.

Can I ask for the other parent to pay my Court costs?

Your Notice of Motion to Vary can include a request for the other parent to pay your costs. Costs can mean either an amount decided according to the schedule of costs, or *tariff* set out in the *Court of Queen's Bench Rules*, or an amount up to the full costs of the Court process, including any legal fees. At the end of the Court process, the judge decides whether or not to make an Order for your costs to be paid. If you don't ask for costs in the Notice of Motion to Vary, the judge cannot make an Order for costs to be paid. Ask for costs in the second paragraph of the Notice of Motion to Vary, after listing the Orders that you want to vary.

Once you have prepared your Notice of Motion to Vary, skip ahead to **Step Five, Preparing an Affidavit**.

Step Four: Applying to Vary a Child Support Order (When Both Parents Agree)

- ❑ Do you have the financial information you need from the other parent? If not, go back to the checklist on Page 11 and ask the other parent to provide the information to you. If you're not sure, go back and review the checklist on Page 11.
- ❑ Do you and the other parent agree to the change that you want to make to the Child Support Order? If not, go back to **Step Three, Applying to Vary a Child Support Order**.
- ❑ Do you and the other parent agree to any other Court Orders that you are applying for? For example, are you applying to remit or forgive arrears of child support and you both agree? If not, go back to **Step Three, Applying to Vary a Child Support Order**.

How do I apply to vary a Child Support Order?

To apply to change, or vary a Child Support Order when both parents agree, there are at least three documents you need to prepare. These are:

1. Notice of Motion to Vary
2. Affidavit
3. Proposed Variation Order

These documents must be filed in the Court so that a judge can review them and decide if the Child Support Order will be changed.

A Notice of Motion to Vary is a document that lets the Court know what kind of Court Order you are asking to change. It also sets the date and time when you will be heard by a judge.

Part C includes an example of a Notice of Motion to Vary. This is a document that you have to create, following the format in the example. Make sure you read and follow the Rules for Preparing Court Documents found in **Part C**.

If your name has changed since the last Court process between you and the other party, you need to prepare and file a **Notice of Change of Name** with supporting identifying certificate before filing any other documents. The Notice of Change of Name is a Court document that you must prepare following the *Court of Queen's Bench Rule* 70.44 and Form 70AA. An example of the Notice of Change of Name is included in Part C.

File the Notice of Change of Name in the Court office. For help on how to file Court documents, read **Step Seven, Filing Documents in Court**. Serve the Notice of Change of Name on the other party or their lawyer. For help on how to serve Court documents, read **Step Nine, Serving Documents**.

Before you begin to prepare any documents, make sure that you have a copy of the Order or Judgment setting the current amount of child support. If the original Order or Judgment has been changed or varied before, you also need to have copies of all earlier Variation Orders. If you do not have a copy of the Order or Judgment, you can get a copy at the office of the Court of Queen's Bench where your Order or Judgment was made. There is a charge for making copies at the Court.

The form for a Notice of Motion to Vary is found in *Court of Queen's Bench Rule* 70.03(7) [Form 70H]. A Notice of Motion to Vary must follow Form 70H.

At the beginning of the Notice of Motion to Vary you have to set out the full name and address of the other parent, including the postal code.

The first paragraph of the Notice of Motion to Vary says who is making the Motion. Is it the petitioner or the respondent? When will the Motion be heard? In Winnipeg Centre, the first Court date will be on a Tuesday morning at 9 a.m. In Brandon Centre, the first Court date will be on a Monday morning at 9 a.m. Outside of Winnipeg Centre, check with the Court of Queen's Bench office as to when the next date will be for family motions to be heard. Where will the Motion be heard? You must file your Motion in the same Court of Queen's Bench centre where the Child Support Order was made, or last varied. Fill in the address of the Court of Queen's Bench office in the first paragraph. All of this information must be filled in the first paragraph of the Notice of Motion.

If you want to file your Notice of Motion to Vary in a different Manitoba Court of Queen's Bench Centre and you or the other parent live in or near that centre, you can ask the Court to **transfer your Court file** to the other centre. Read **Step Six, Transferring a Court File** for information on how to do this.

The second paragraph says which kind of Court Order you are applying to change. Fill in the kind of Order (for example, Child Support Order). Then fill in the name of the judge that made the Order, name of the Court, province and date that the Order was made. Do this for each Order that you need varied.

The third paragraph remains the same. It tells the other parent how to respond after receiving the document.

The next two paragraphs are included only if the Child Support Order that you want to vary was made under the *Divorce Act*. Set these out exactly as shown in Form 70H. If your Child Support Order was not made under the *Divorce Act*, do not include these paragraphs.

The next two paragraphs of the Notice of Motion to Vary must say:

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE MOTION, you or a Manitoba lawyer acting for you must serve a copy of the evidence on the moving party's lawyer or, where the moving party does not have a lawyer, serve it on the moving party, and file it in the court office where the motion is to be heard as soon as possible, but not later than 2:00 p.m. on a day that is at least seven days before the hearing.

IF YOU FAIL to appear at the hearing, an order may be given in your absence and without further notice to you.

This information lets the other parent know their rights and responsibilities in response to your Notice of Motion to Vary.

Next, you set out the details of the changes you are asking for. List these in separate, numbered paragraphs. For a change to a Child Support Order, you must say whether you are asking for an amount that is:

- the table amount from the *Child Support Guidelines* or a different amount; and/or
- an amount for special or extraordinary expenses, as defined in the *Child Support Guidelines*

If you are also asking the Court to make any other Orders, such as to remit, or reduce arrears of child support, list those requests here in separate numbered paragraphs.

If your Motion asks to reduce or forgive arrears of child support, and you are also appearing in Maintenance Enforcement Court, you can also ask the Court to *suspend* or put on hold the Maintenance Enforcement Court proceedings.

If you don't ask for this, you will have to continue to attend Maintenance Enforcement Court and any other enforcement proceedings will also continue. That process doesn't stop or get put on hold just because you file a Notice of Motion to Vary. There has to be a Court Order to suspend that process until the Notice of Motion to Vary is decided.

To deal with arrears and/or suspend enforcement you must in addition to serving the other parent, serve a Director of Field Services, Employment and Income Assistance or his or her authorized representative at 305-114 Garry Street, Winnipeg, Manitoba R3C 4V7.

The next page of the Notice of Motion to Vary begins with the heading Financial Information. Under this heading, the first paragraph says:

> Attached is the petitioner's financial statement (Form 70D).

This paragraph is only included if you need to include a financial statement. *Court of Queen's Bench Rules* 70.05 and 70.37(6) tell you when you need to file a financial statement with the Notice of Motion to Vary. **Step Five, Preparing an Affidavit** tells you how and when to prepare a financial statement.

If you are asking to change a Child Support Order made under the *Divorce Act* and you or the other parent live outside Manitoba, add the following paragraph:

> Attached is the moving party's affidavit containing the documents required under section 21 of the *Federal Child Support Guidelines*.

The last paragraph of the Notice of Motion to Vary lists the documentary evidence you will use at the hearing. This means the Affidavit or Affidavits you will file to support your Motion. List each Affidavit as:

> Affidavit of [insert name of person swearing Affidavit], sworn [insert date Affidavit is sworn].

If there is more than one Affidavit you are relying on, list each on a separate line in the same way as the example.

You sign your name at the end of the Notice of Motion to Vary, and list your name, address, and telephone number, as well as fax number and E-mail address, if you have them.

Every document filed in Court must have a cover page except for orders. The form of a cover page is found in *Court of Queen's Bench Rule* 4 and Form 4C. **Part C** includes an example of a cover page.

Once you have prepared your Notice of Motion to Vary, go to **Step Five, Preparing an Affidavit**.

Step Five: Preparing an Affidavit

- ❑ Do you have the financial information you need from the other parent? If not, go back to **Step Two, Applying for a Court Order for Financial Information**.
- ❑ If you are applying for a Court Order for financial information, have you prepared your Notice of Motion? If not, go back to **Step Two, Applying for a Court Order for Financial Information**.
- ❑ If you have the financial information you need, have you prepared your Notice of Motion to Vary? If not, go back to **Step Three, Applying to Vary a Child Support Order**.

What is an Affidavit?

An **Affidavit** is a document that contains written facts you swear are true. These are facts supporting your request for the Court Order. The form of an Affidavit is found in *Court of Queen's Bench Rule* 4 (Form 4D).

Part C includes an example of an Affidavit. This is a document that you have to create. Follow the format in *Court of Queen's Bench* Rule 4 and the example. Make sure you read the Rules for Preparing Court Documents found in **Part C**.

The facts in an Affidavit are set out in a series of numbered paragraphs. Each paragraph should be as short as possible, and contain a sentence or sentences about a single topic. The Affidavit is clearer and easier to read if each paragraph contains just a single sentence or topic.

An Affidavit can only include facts that the person making the Affidavit or deponent personally knows to be true. If someone has told you something and you believe it, you can include this information in your Affidavit only if you say who told you and that you believe that it is true.

I need financial information. What do I include in my Affidavit?

An Affidavit that supports a Notice of Motion for financial information should include the following facts:

- ❑ your name and your city/town of residence
- ❑ whether you are the petitioner or the respondent in the Court file
- ❑ whether you made a written request for financial information from the other parent
- ❑ a list of the information that you asked the other parent to give you
- ❑ the date that you sent or delivered the written request to the other parent and how you did so
- ❑ whether you received the financial information that you requested from the other parent
- ❑ a list of the information you still need from the other parent

Use this list as a checklist when you prepare your Affidavit.

I'm applying to change a Child Support Order. What do I include in my Affidavit?

Every Affidavit that supports a Notice of Motion to Vary a Child Support Order must include the following information:

- ❑ your name, and city/town of residence
- ❑ whether you are the petitioner or the respondent in the original Court file
- ❑ the date of the last Child Support Order with a copy of that Order attached to the Affidavit and any other orders.
- ❑ the place of ordinary residence of both parents, as well as the children for whom support is paid or sought
- ❑ the current custody and access arrangements
- ❑ the current child support arrangements
- ❑ a description of the proposed change to the child support arrangements
- ❑ if there are any arrears under a previous Child Support Order, the amount of the arrears and a payment record from the Maintenance Enforcement office if the support is paid through that program
- ❑ if applying to forgive, reduce or remit arrears of child support, proof of your total income in each year for which you are asking to vary, cancel or suspend support, including copies of income tax returns or other documents
- ❑ if applying to change ongoing child support, proof of your total income for the current year
- ❑ a description of any change in either parent's circumstances or the child's circumstances since the time of the last Court Order, unless the Child Support Order was made:
- ❑ before May 1, 1997 under the *Divorce Act*
- ❑ before June 1, 1998 under *The Family Maintenance Act*
- ❑ if needed, a sworn financial statement, prepared following *Court of Queen's Bench Rules* 70.05 and 70.37(6) and using **Form 70D** (**Part C** includes an example of a financial statement)

Use this list as a checklist when you prepare your Affidavit.

What is Form 70D?

Form 70D is a sworn financial statement that sets out your financial information attached to an Affidavit. The *Court of Queen's Bench Rules* 70.05 and 70.37(6) tell you when to include Form 70D with your Affidavit and which parts you need to complete. **Part C** includes an example of a financial statement. You have to create this document following the *Court of Queen's Bench Rule* 70.05 and Form 70D.

Form 70D has a first page and four parts. The first page is the Affidavit that you swear is true. The Affidavit must be signed and sworn to be true. That means that the person making the Affidavit or *deponent* must sign, date and swear that the Affidavit is true in the presence of a witness. The witness must be a Commissioner for Oaths, a justice of the peace, a magistrate, a postmaster, a lawyer or a notary public. A lawyer or notary public may charge you for this service.

The four parts of the financial statement are:

- Part 1 – Annual Income
- Part 2 – Monthly Expenses
- Part 3 – Assets of Both Parties
- Part 4 – Debts of Both Parties

When do I need to include Form 70D in my Affidavit?

If you are applying to vary a Child Support Order, you do not need to file and serve Form 70D if <u>all</u> of these apply:

- the only child support amount claimed is the table amount from the *Child Support Guidelines* (e.g. there are no claims for: special or extraordinary expenses, undue hardship and neither split custody or shared custody is in issue) and you are the support recipient; and
- the children for whom support is sought are all under the age of 18 years; and
- there are no other issues of support or property raised in your Notice of Motion to Vary; and
- your income information is not necessary to decide the amount of the new Child Support Order (e.g. there are no claims for: special or extraordinary expenses, undue hardship and neither split custody or shared custody is in issue).

If you are not sure whether you need to file a Form 70D or not, you may want to consider consulting with a lawyer.

If you are applying to vary a Child Support Order, you only need to file and serve Part 1 of Form 70D if:

- the only child support amount claimed is the table amount from the *Child Support Guidelines* and you are the support payor; and
- the children for whom support is sought are all under the age of 18 years; and
- there are no other issues of support or property raised in your Notice of Motion to Vary; and
- your income information is necessary to decide the amount of the new Child Support Order (e.g. special or extraordinary expenses, but <u>not</u> undue hardship, split custody or shared custody).

If you are not sure whether you need to file a Form 70D or not, you may want to consider consulting with a lawyer.

What if my Child Support Order was made under the *Divorce Act*?

The same rules apply if you are applying to vary a Child Support Order made under the *Divorce Act* and your income information is necessary to decide the amount of the new Child Support Order. But, you also need to file and serve:

- ❑ copy of every personal income tax return that you filed for each of the three most recent tax years
- ❑ copy of every notice of assessment or reassessment issued to you by Canada Customs and Revenue Agency for each of the three most recent tax years
- ❑ **if you are an employee**, your most recent statement of earnings showing the total earnings paid in the year to date, including overtime, or a letter from your employer setting out that information including the rate of annual salary or pay
- ❑ **if you are self-employed**, the financial statements of

the your business or professional practice, other than a partnership, and a statement showing a breakdown of all salaries, wages, management fees or other payments and benefits paid to people or businesses that you are somehow related to, for each of the three most recent tax years

- ❑ **if you are a partner in a partnership**, confirmation of your income and draw from, and capital invested in the partnership, for each of the three most recent tax years
- ❑ **if you control a corporation**, the financial statements of the corporation and its subsidiaries, and a statement showing a breakdown of all salaries, wages, management fees or other payments and benefits paid to people or businesses that you are somehow related to, for each of the three most recent tax years
- ❑ **if you receive benefits from employment insurance, social assistance, a pension, workers compensation, disability payments or any other source**, the most recent statement of income that shows the total amount received from that source in the year or a letter from the provider of the benefits setting out that information
- ❑ **if you are a beneficiary under a trust**, a copy of the trust settlement agreement and copies of the trust's three most recent financial statements
- ❑ **if you cannot provide the documents required**, you must explain why you haven't attached those documents

Use this list as a checklist when you prepare your Affidavit.

In addition, if you are seeking to vary your support downward because of a change in your circumstances including, but not necessarily limited to, loss of employment or for medical reasons, you may wish to consider providing other information if applicable including but not necessarily limited to:

- proof of and reasons for loss of employment
- details of efforts to find work
- medical reports pertaining to your ability to be employed
- affidavits of doctors
- Employment Insurance records
- Worker's Compensation information

How do I include documents in an Affidavit?

When you are including other documents with an Affidavit, such as a copy of an income tax return printout, a sworn financial statement or a copy of a pay-stub, these other documents must be attached at the end of the Affidavit as **exhibits**. In the Affidavit, you must state that a document is attached to the Affidavit as an exhibit. Each exhibit is assigned a consecutive letter of the alphabet. The first exhibit attached is Exhibit A, the next is Exhibit B, the next is Exhibit C, and so on.

The paragraph that refers to an exhibit must always clearly describe the document that is attached as an exhibit. For example:

> 10. Attached to this my Affidavit and marked as Exhibit A is a copy of my sworn financial statement in Form 70D.

Each document attached as an exhibit must be clearly marked as an exhibit. The exhibits must each be attached to the Affidavit before the Affidavit is signed, dated and sworn. The witness to the swearing of the Affidavit will sign the Affidavit as a witness, and will also sign and date each exhibit as a witness.

On each exhibit, you will need to write or type the following words:

> THIS IS EXHIBIT ____ TO THE AFFIDAVIT OF
>
> _____
>
> SWORN BEFORE ME AT THE CITY/TOWN Oi
>
> _____ IN THE PROVINCE OF
>
> MANITOBA, THIS _____ DAY OF _____
>
> 20____.
>
> _____
>
> (Signature of Witness)
>
> A Commissioner for Oaths in an for the Province of
>
> Manitoba. My commission expires: _____

A Barrister and Solicitor in and for the Province of Manitoba.

A Notary Public in and for the Province of Manitoba.

These words must appear on the front of an exhibit, unless there is no available space. If you cannot add these words to the front of the document, the words must appear on the back of the first page of the document.

Is there anything else I need to do?

Every document filed in Court must have a cover page except for orders. The form of a cover page is found in *Court of Queen's Bench Rule* 4 and Form 4C. **Part C** includes an example of a cover page.

The cover page of an Affidavit must say:

- the name of the person who swears the Affidavit
- the date the Affidavit is sworn

The Affidavit must be signed and sworn to be true. That means that the person making the Affidavit or *deponent* must sign, date and swear that the Affidavit is true in the presence of a witness. The witness must be a Commissioner for Oaths, a justice of the peace, a magistrate, a postmaster, a lawyer or a notary public. A lawyer or notary public may charge you for this service.

Can I use an Affidavit from someone else?

Sometimes, another person may know facts that are relevant or important for your case. If you want to rely on the facts that the other person knows, you need to get an Affidavit from that person.

The *Court of Queen's Bench Rule* 70.20(9) says that you can only file one Affidavit from each person who is not a party and that you can only do this if that person has evidence that is relevant to your case.

Prepare this Affidavit in the same way as you prepare your own. Make sure that the Affidavit clearly states the name and place of residence of the person making the Affidavit or *deponent*. Set out the important and relevant facts in a series of numbered paragraphs. Keep each paragraph as short as possible, with just a sentence or sentences about a single topic. Remember that an Affidavit can only include facts that the deponent personally knows are true. Attach any exhibits that are relevant. Add a cover page. The deponent signs, dates and swears the Affidavit in the same way as you did your Affidavit.

Can I reply to the facts in the other parent's Affidavit?

If you have filed your Notice of Motion to Vary and supporting Affidavit, and served these documents on the other parent, you may be served with an Affidavit from the other parent, responding to what you said.

You can file one more Affidavit of your own evidence in reply to the other parent's Affidavit. This second Affidavit can only respond to new issues that the other parent brought up in their Affidavit.

Sometimes your motion will result in the other party raising other issues and seeking to vary other aspects of the prior order (i.e. custody/access or issues of undue hardship).

If you need to file any other financial information at this time, you must do so within 20 days after you are served with the other parent's Affidavit.

Attach any exhibits that are relevant. Add a cover page. Sign, date and swear this second Affidavit in the same way as you did the first.

If you are preparing documents to vary a Child Support Order where both parents agree to the changes, then skip ahead to **Step Fourteen, Preparing an Order**. Otherwise, go to **Step Seven, Filing Documents in Court**.

Step Six: Transferring a Court File

❑ If you and the other parent want to file your documents and have the hearing in a Court of Queen's Bench centre in Manitoba that is different from where you filed your documents before, read on.

❑ If you plan to file your documents and have the hearing in the Court of Queen's Bench centre where you filed your documents before, skip ahead to **Step Seven, Filing Documents in Court**.

In some cases, you can ask to transfer your Court file to a different Court of Queen's Bench centre. You might want to do this if you have moved within Manitoba, and are now closer to a different Court of Queen's Bench centre. You can only transfer a file from one judicial centre to another judicial centre.

In Manitoba, the following towns or cities are a Court of Queen's Bench **judicial centre**:

- Brandon
- Dauphin
- Flin Flon
- Portage la Prairie
- Selkirk
- The Pas
- Thompson
- Winnipeg

The following towns or cities are a Court of Queen's Bench **administrative centre**:

- Minnedosa
- Morden
- St. Boniface
- Swan River
- Virden

You can file documents in an administrative centre, but you may have to travel to a judicial centre for the hearing.

There are two ways to ask to transfer a Court file to a different Court of Queen's Bench judicial centre. These are:

1. by Requisition, if both parents agree
2. by Notice of Motion, if both parents don't agree

How do I transfer a Court file using a Requisition?

Using a Requisition is possible only if you and the other parent agree to transfer the Court file. If you agree, either you or the other parent can file a document called a **Requisition** in the Court of Queen's Bench centre where the Court file is. Both you and the other parent must sign the Requisition to show you agree to transfer the Court file.

The form for a Requisition is found in *Court of Queen's Bench Rule* 4 (Form 4E). **Part C** includes an example of a Requisition. The Requisition must follow Form 4E.

Every document filed in Court must have a cover page except for orders. The form of a cover page is found in *Court of Queen's Bench Rule* 4 and Form 4C. **Part C** includes an example of a cover page.

Prepare the Requisition in Form 4E. Fill in the name of the Court of Queen's Bench centre where the file will be transferred. Both you and the other parent must sign the document. File the Requisition in the Court of Queen's Bench centre where your Court file is now. Go to **Step Seven, Filing Documents in Court**.

How do I transfer a Court file using a Notice of Motion?

If you and the other parent don't agree to transfer your Court file to a different Court of Queen's Bench centre, you can use a **Notice of Motion** and set a hearing to ask the Court to transfer the file.

A Notice of Motion is a document that lets the Court know what kind of Court Order you are asking for. It also sets the date and time when you will be heard by a judge.

Part C includes an example of a Notice of Motion. This is a document that you have to create, following the format in the example. Make sure you read and follow the Rules for Preparing Court Documents found in **Part C**.

The form for a Notice of Motion is found in *Court of Queen's Bench Rule* 70.18 Form 70Q.

A Notice of Motion has four paragraphs. The first paragraph says who is making the Motion. Is it the

petitioner or the respondent? Is the Motion made to a judge or to a master? A Notice of Motion for a transfer of a Court file can only be made to a master. When and where will the Motion be heard? All of this information must be filled in the first paragraph of the Notice of Motion.

> A **master** is an officer of the Court of Queen's Bench in Manitoba who has authority to make Orders about procedure during a court proceeding and other Orders as set out in the *Court of Queen's Bench Rules*.

The second paragraph says what the Motion is for. This is where you ask for a Court Order to transfer the Court file to another Court of Queen's Bench centre. Be sure to list the specific centre where you want the file transferred.

The third paragraph says what the legal basis for the Motion is. In other words, what laws are you relying on to ask for the Court Order? In this case, list:

> *The Court of Queen's Bench Act* and *Court of Queen's Bench Rules*

The fourth paragraph lists the documentary evidence you will rely on at the hearing. This means the Affidavit or Affidavits you will file to support your Motion. List the Affidavit as:

> Affidavit of [insert name of person swearing Affidavit], sworn [insert date Affidavit is sworn]

The Notice of Motion is dated with the date that you file it in Court and lists your name, address and telephone number. It is addressed to the other parent, or his/her lawyer.

Every document filed in Court must have a cover page except for orders. The form of a cover page is found in *Court of Queen's Bench Rule* 4 and Form 4C. **Part C** includes an example of a cover page.

You need to prepare an Affidavit to support the Notice of Motion. The Affidavit gives the facts, or evidence that the judge uses to decide if your Motion to transfer the Court file will be allowed. In the Affidavit, include the following facts:

- ❑ your name and your city/town of residence and the other parent's city/town of residence
- ❑ whether you are the petitioner or the respondent in the Court file
- ❑ the reasons why you want the Court file transferred to a different Court of Queen's Bench judicial centre and why the balance of convenience favours transfer
- ❑ whether or not you asked the other parent to agree to the transfer, and if so, the other parent's answer

For help in preparing the Affidavit, go back to **Step Five, Preparing an Affidavit**. After the Notice of Motion and Affidavit are prepared, go to **Step Seven, Filing Documents in Court**.

Step Seven: Filing Documents in Court

- ❑ If you had a lawyer for the last Court process between you and the other parent, have you prepared and served a Notice of Intention to Act in Person if it is necessary for you? If not, go back to **Step One, Representing Yourself**.
- ❑ Have you prepared a Notice of Motion or Notice of Motion to Vary? If not, go back to **Step Three, Applying to Vary a Child Support Order**.
- ❑ Have you prepared an Affidavit to support your Notice of Motion? If not, go back to **Step Five, Preparing an Affidavit**.
- ❑ If you and the other parent agree to vary the Child Support Order, have you prepared a Proposed Variation Order? If not, go to **Step Fourteen, Preparing The Order**.

Where do I file the documents?

File the documents in the Court of Queen's Bench centre where the Child Support Order was made. The name of the Court of Queen's Bench centre is found on the top of the front cover page of your Child Support Order. For example, if it says Winnipeg Centre, then you will file your documents in the Winnipeg Court of Queen's Bench office, and if it says Flin Flon Centre, then you will file your documents in the Flin Flon Court of Queen's Bench office.

If your Court of Queen's Bench file was transferred to another centre, then file the documents in the new Court of Queen's Bench centre.

To find the address of the Court office, check **Part D**. You can also check the Manitoba Government listings at the back of your telephone book. Look under the heading of Justice, and the sub-heading of Courts Division.

Is there anything else I need to do before I file the documents?

Make copies of all the documents that you are filing in the Court. You need at least three extra copies of each document.

If you are filing a Notice of Motion that will be heard without notice to the other parent, call ahead to the Court's Family Division office to schedule a date and time for the Motion to be heard by a judge. In most centres, there is a motions co-ordinator who schedules all the motions. Check **Part D** for the telephone number of the motions co-ordinator or Court office in your centre.

Fill in the Court date and time on the cover page of the Notice of Motion and inside first paragraph.

If you are filing a Notice of Motion to Vary, leave the Court date and time blank until you file the document at the Court office.

Before you can file an Affidavit, it must be signed, dated and sworn to be true before a witness. The witness must be a Commissioner for Oaths, a justice of the peace, a magistrate, a postmaster, a lawyer or a notary public. A lawyer or notary public may charge you for this service.

Are there any time limits for filing documents?

Yes. The time limits are set out in the *Court of Queen's Bench Rules* as follows:

- Notice of Motion to Vary – file and serve by 2 p.m., four days before the first Court date.
- Affidavit (supporting Notice of Motion to Vary) – file and serve by 2 p.m., four days before the first Court date.
- Affidavit (in response to Notice of Motion to Vary) – file and serve by 2 p.m., seven days before the contested hearing date.
- Affidavit (in reply) – file and serve by 2 p.m., four days before the contested hearing date.

If you want to file an Affidavit after the time allowed, you must mark the word LATE in large and bold type on the cover page for filing. Also, you must prepare and file a Notice of Motion asking for permission, or *leave* for the late filing. The judge will hear this Motion on the contested hearing date. Remember that you must also serve the other parent or his/her lawyer with your Notice of Motion and Affidavit.

Court of Queen's Bench Rule 3 says that when counting less than seven days, you don't count holidays. This means, you don't count Saturday, Sunday or any of the following holidays:

- New Year's Day
- Good Friday
- Easter Monday
- Victoria Day
- Canada Day
- Civic Holiday (August)
- Labour Day
- Thanksgiving Day
- Remembrance Day
- Christmas Day
- Boxing Day

You also don't count the day that you filed the documents.

EXAMPLE ONE

If a Motion is set for hearing on Tuesday morning, count backwards four days from Tuesday. Don't include the day that the documents are filed. Don't include holidays. Include the day of the hearing. It must be filed no later than the Wednesday before the Motion, if there are no other holidays.

S	M	T	**W**	Th	F	Sa
			File	1	2	X
S	M	**T**	W	Th	F	Sa
X	3	**4 (Hearing)**				

EXAMPLE TWO

If there is another holiday in this time period, you must file the documents even earlier. If the day before the hearing is a holiday too, you must file the documents no later than the Tuesday before the hearing.

S	M	**T**	W	Th	F	Sa
		File	1	2	3	X
S	M	**T**	W	Th	F	Sa
X	X	**4 (Hearing)**				

What do I need to bring with me?

Filing documents in Court means that you are adding documents to your Court file. For this reason, you should bring along at least two copies of each document that you are filing in the Court of Queen's Bench.

If you are filing a proposed Interim Order or proposed Variation Order, bring at least three copies of this document.

You should also bring money, in cash, money order or certified cheque. There is a filing fee for a Notice of Motion (Without Notice) or a Notice of Motion to Vary. Court fees and charges can be paid by certified cheque or money order made out to the Minister of Finance, or in cash. There is no filing fee for an Interim Order or Variation Order, unless the document was returned to you with a Notice of Rejection. There is a filing fee for re-filing rejected documents.

Fees paid to the Court of Queen's Bench for filing documents are not refundable. You must pay the filing fee or charge. Filing fees and other charges are not refunded. For more information about fees and charges, check *The Law Fees and Probate Act*.

One copy of each document that you file will remain on the Court file. Keep the extra copies for your own use, and for serving, or delivering to the other parent.

Step Eight: Case Management

What is Case Management?

Case management is a Court process that allows a judge to monitor and manage the progress of a Court case as it moves through the system. As part of this process, people who are separating and divorcing have an opportunity to meet with a judge, in a settlement oriented atmosphere, to try to resolve their issues together.

What are the goals of Case Management?

One goal of Case Management is to reduce the unnecessary delay in reaching a final determination of a case. Another goal is to reduce the costs to individuals involved with the court. A third goal is to allow and encourage people involved in separation, divorce and other family law matters to participate directly in finding their own mutually satisfactory solutions.

If you were involved in case management when the first Child Support Order was made, you must also use case management if you want to vary, or change the Child Support Order.

In Winnipeg, family law cases that begin on or after November 1, 2002 are automatically included in the Case Management process.

Prior to November 1, 2002, one in five Winnipeg family law cases were randomly selected to be part of the Case Management process. If you don't know whether your file was a part of the Case Management

process, contact the Court office where you filed your documents and ask. If it is determined that your family file was not part of the Case Management process prior to November 1, 2002, you have the option of opting in to the program. Contact the case management co-ordinator for more information. Check **Part D** for the telephone number.

The rules for case management are found in *Court of Queen's Bench Rule* 70.24.

How does case management work for variations?

When you file a Notice of Motion to Vary in the Court, a case management schedule begins to run. You receive from the Court two copies of the *Case Management of Family Matters* pamphlet, one of which is to be served on the other parent. This can be done at the same time when you serve the Notice of Motion to Vary. Further steps must be taken to follow up on the Motion within 90 days.

If your variation motion is being contested to decide if the Child Support Order will be varied, you must attend a case conference first. A case conference is an informal meeting between the parents, their lawyers (if lawyers are involved) and a judge. Usually, the case conference judge will be the same judge who led your case conferences in the past.

A contested hearing is a hearing that takes place when both parents don't agree to what one or both are asking the Court to do. For example, if one parent is asking to increase child support, and the other parent doesn't agree to the increase, a contested hearing will take place and a judge will decide for them.

How is a case conference scheduled?

After you have filed your Notice of Motion to Vary, you can schedule a first case conference at anytime. You must call the case management co-ordinator who will provide you with a list of available dates and times. Check with the other parent or his/her lawyer about which dates and times work best. Call the case management co-ordinator to schedule a date and time for the first case conference to take place.

If the other parent consents or agrees to the date and time of the case conference, you need to file a Requisition with the Court indicating the case conference date and time, and serve the other parent. At the case conference, the judge requires proof of service that the other parent was informed of the arranged case conference date and time.

If the other parent does not respond or consent to the case conference, you need to file a Requisition with the Court indicating the case conference date and time, and serve the other parent 14 days in advance of the case conference date. At the case conference, the judge requires proof of service that the other parent was informed of the arranged case conference date and time. Go to **Step Nine, Serving Documents** for further information.

If there is no action on your Court file in 90 days of the filing of the Notice of Motion to Vary, a case conference will be scheduled for you to attend. **A Notice of Case Conference** is sent from the Court to the parent who filed the Notice of Motion to Vary. This parent must serve or deliver the Notice of Case Conference to the other parent in the same way as the Notice of Motion to Vary was served. Go to **Step Nine, Serving Documents** for more information on how to serve the Notice of Case Conference.

What if I can't attend on the date scheduled?

If you can't attend the Case Conference when it is scheduled, you can ask for the date to be *adjourned*, or changed to a different date. You can only do this if the other parent consents, or agrees.

You have to file a **Request for Adjournment** form to ask for the date to be changed. **Part C** includes an example of a Request for Adjournment. The Request for Adjournment must be prepared as set out in the *Court of Queen's Bench Rule* 70.24(19) Form 70T. You can create your own form following *Court of Queen's Bench Rule* 70.24(19) and Form 70T.

Before you complete the Request for Adjournment, call the case management co-ordinator to set up a new date. This new date must be filled in on the Request for Adjournment form. The Request for Adjournment also

must explain why you need to adjourn the case conference.

There are time limits for filing the Request for Adjournment. It must be filed at least 14 days before the case conference. There is no filing fee for a Request for Adjournment. Once the case conference judge decides to either grant or deny your request for an adjournment, you are contacted by the case management co-ordinator. Whether your request is granted or denied, you must advise the other parent of the status of the case conference hearing.

You should know that in most situations, a case conference judge can only adjourn the first case conference one time.

Is there anything I have to do before the case conference?

Before the case conference, both parents must fill out and file a **Case Management Information Statement. Part C** includes an example of a Case Management Information Statement. The Case Management Information Statement must be prepared as set out in the *Court of Queen's Bench Rule* 70.24(14) Form 70S. You can create your own form following the *Court of Queen's Bench Rule* 70.24(14) and Form 70S.

There are time limits for filing the Case Management Information Statement. The Case Information Statement must be filed:

- 14 days before the case conference, if A Notice of Case Conference set the date for your case conference
- by 2 p.m., two days before the case conference, if you or the other parent set the date for your case conference

There is no filing fee for a Case Management Information Statement.

The same time limits indicated above apply to serving the Case Management Information Statement. It must be served on the other parent in the same manner that the Notice of Motion to Vary was served. Skip ahead to **Step Nine, Serving Documents** for more information on how to serve Court documents.

What happens at a case conference?

A number of things can happen at a case conference. You and the other parent can agree on some or all of the issues. The judge can require the parents to take certain steps, such as providing more information, or going to mediation or to a parent information program. The judge can arrange for another case conference or can set a date for hearing the Motion and give procedural directions or order further disclosure prior to the motion being heard.

The judge assigned to your case will continue to work with you until all the issues are agreed on, or until it is clear that the only way to resolve the issues is to hold a contested hearing.

A contested hearing is a hearing that takes place when both parents don't agree to what one or both are asking the Court to do. For example, if one parent is asking to increase child support, and the other parent doesn't agree to the increase, a contested hearing will take place and a judge will decide for them.

The judge who participates in the case conference is not the judge for the contested hearing unless everyone agrees.

If you have filed a Notice of Motion to Vary, go on to **Step Nine, Serving Documents**.

If you have been served with a Notice of Motion to Vary, go on to **Step Ten, Responding to a Notice of Motion to Vary Child Support**.

Step Nine: Serving Documents

- ❑ Have you filed a Notice of Motion or Notice of Motion to Vary in Court? If not, go back to **Step Seven, Filing Documents in Court**.
- ❑ Do you have copies of the documents that you filed in Court? If not, go to the Court office where you filed your documents, and ask to make copies of the documents that you filed. There is a charge for making copies at the Court.

When you file documents in the Court of Queen's Bench to start a Court process like a variation or when you get an Order from the Court, you must always **serve** a copy of each document on the other parent. To serve a document means that you give a copy of a document to a person, by a certain method.

How are documents served?

Court of Queen's Bench Rule 16 sets out the rules for serving documents. There are a number of different ways to serve Court documents.

Personal service means a copy of the document is given to the person who is served.

An **alternative to personal service** means you can serve a person in one of the following ways:

- by giving a copy of the document to the person's lawyer, if the lawyer agrees to accept service and signs and dates a copy of the document
- by registered or certified mail with a confirmation of delivery
- by regular letter mail with an **Acknowledgement of Receipt Form**, as set out in *Court of Queen's Bench Rule* 16 (Form 16A). **Part C** includes an example of an Acknowledgement of Receipt Form.
- by leaving a copy in a sealed envelope addressed to the person at his/her home, with any adult person, and then by mailing another copy to the person at that address, the same day or next day

You must serve the other parent with the Notice of Motion to Vary and supporting affidavit(s) by personal service or by serving his/her lawyer by giving a copy of the document to the lawyer. You can only serve the lawyer if the lawyer agrees to accept service and signs and dates a copy of the document(s).

It is important to know that you cannot personally serve a Notice of Motion to Vary on the other parent. Someone else must do it for you and sign an affidavit confirming the document was served. You can serve documents other than a Notice of Motion to Vary on the other parent, but it is still a good idea to have someone else do it in case there is any issue raised by the other parent about the service of documents.

A Case Management Information Statement must be served by one of the same methods. You can choose which of the methods of service to use from the list above.

Who do I have to serve?

When you file a Notice of Motion to Vary a Child Support Order, you have to serve the other parent.

You also have to serve the Director of Field Services, Employment and Income Assistance whenever you are asking for a change in the amount of a Child Support Order or cancellation of arrears of child support or suspension of enforcement of a Child Support Order. Serve the Director of Field Services, Employment and Income Assistance at:

Director of Field Services,
Employment and Income Assistance
Attention: Maintenance Officer
305-114 Garry Street
Winnipeg, Manitoba
R3C 4V7

If the other parent lives outside Manitoba, and you are applying to suspend enforcement of child support payments or arrears of child support, you also have to serve the Designated Officer, Maintenance Enforcement Program with a copy of the Notice of Motion to Vary. Serve the Designated Officer, Maintenance Enforcement Program at:

Designated Officer
Maintenance Enforcement Program
225-405 Broadway Avenue
Winnipeg, Manitoba
R3C 3L6

Are there any time limits for serving documents?

When you file a Notice of Motion to Vary, you must serve it on the other parent at least four days before the first Court date.

If you file an affidavit in response to the Notice of Motion to Vary, you must serve it on the other parent at least seven days before the contested hearing date.

A Case Management Information Statement must be served on the other parent:

- 14 days before the case conference, if a Notice of Case Conference set the date for your case conference
- by 2 p.m., two days before the case conference, if you or the other parent set the date for your case conference

Court of Queen's Bench Rule 3 says that when counting less than seven days, you don't count holidays. This means, you don't count Saturday, Sunday or any of the following holidays:

- New Year's Day
- Good Friday
- Easter Monday
- Victoria Day
- Canada Day
- Civic Holiday (August)
- Labour Day
- Thanksgiving Day
- Remembrance Day
- Christmas Day
- Boxing Day

You also don't count the day that you served the documents.

EXAMPLE ONE

If a Motion is set for Tuesday morning, count backwards four days from Tuesday. Start counting on the day after the documents are served. Don't include holidays. Include the day of the hearing. It must be served no later than the Wednesday before the Motion, if there are no other holidays.

S	M	T	**W**	Th	F	Sa
			Serve	1	2	X
S	M	**T**	W	Th	F	Sa
X	3	**4 (Hearing)**				

EXAMPLE TWO

If there is another holiday in this time period, you must serve the documents even earlier. If the day before the hearing is a holiday too, you must serve the documents no later than the Tuesday before the hearing.

S	M	**T**	W	Th	F	Sa
		Serve	1	2	3	X
S	M	**T**	W	Th	F	Sa
X	X	**4 (Hearing)**				

Who serves the documents?

If there has been violence or threats of violence between you and the other parent in the past, think carefully before you decide how to serve the other parent with any Court documents. Any adult person can serve Court documents. You don't have to do it yourself.

You cannot serve a Notice of Motion to Vary on the other parent. Someone else must do this for you.

People who serve documents for others are called process servers. They charge a fee for their work, which usually includes a fee for travel mileage and the preparation of the necessary affidavit proving service. Check the *Yellow Pages* of your telephone book for a list of process servers in your region.

How do I prove that the documents were served?

Before a hearing takes place in Court, you have to prove you served everyone who needed to be served.

If a person was served personally, or by an alternative to personal service, an **Affidavit of Service** must be prepared. This is a document that proves that a person was served with documents in the way, and in the time limits required by the *Court of Queen's Bench Rules*.

The form of the Affidavit of Service is found in *Court of Queen's Bench Rule* 16 (Form 16B). **Part C** includes an example of an Affidavit of Service. The Affidavit of Service is a document that you have to create following the format in the example. Make sure you read and follow the Rules for Court Documents found in **Part C**.

The form includes wording to use for each of the different ways a person can be served.

Every document filed in Court must have a cover page except for orders. The form of a cover page is found in *Court of Queen's Bench Rule* 4 (Form 4C). See **Part C** for an example of a cover page. The cover page of an Affidavit must say:

- the name of the person who swears the Affidavit
- the date the Affidavit is sworn

The Affidavit must be signed and sworn to be true. That means that the person making the Affidavit, or *deponent* must sign, date and swear that the Affidavit is true in the presence of a witness. The witness must be a Commissioner for Oaths, a justice of the peace, a magistrate, a postmaster, a lawyer or a notary public. A lawyer or notary public may charge you for this service.

Proof of service on a lawyer can also be a copy of all documents served, with the lawyer's signed and dated acceptance of service on the cover of each document.

The sworn Affidavit of Service or other proof of service is filed in the Court of Queen's Bench. It should be filed no later than 2 p.m. on the day before the hearing.

When you have served the other parent and anyone else that needs to be served, move on to **Step Ten, Responding to a Notice of Motion to Vary Child Support**.

Step Ten: Responding to a Notice of Motion to Vary Child Support

❑ Have you been served with a Notice of Motion to Vary? If so, read on to find out what you can do in response.

❑ Did you serve a Notice of Motion to Vary on the other parent? If so, read on to find out what you can expect in response.

What is a Notice of Motion to Vary?

The Notice of Motion to Vary is a document that lets the Court know what kind of Court Order the other parent is asking to change. It also sets the date and time when the Motion will be heard by a judge. **Part C** includes an example of a Notice of Motion to Vary.

Carefully read the Notice of Motion to Vary. The first paragraph of the Notice of Motion to Vary says who is making the Motion, when the Motion will be first heard and where the hearing will take place.

The second paragraph says which kind of Court Order the other parent is applying to change. It lists the kind of Order (for example, Child Support Order), the name of the judge that made the Order, the name of the Court and province and the date that the Order was made.

The third paragraph tells you that you have to serve and file an affidavit and a financial statement in the Court within 20 days.

If your Child Support Order was made under the *Divorce Act*, the following two paragraphs give you instructions about the documents you need to file in response. Read these carefully.

The next paragraphs are instructions for you. These say that:

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE MOTION, you or a Manitoba lawyer acting for you must serve a copy of the evidence on the moving party's lawyer or, where the moving party does not have a lawyer, serve it on the moving party, and file it in the court office where the motion is to be heard as soon as possible, but not later than 2:00 p.m. on a day that is at least seven days before the hearing.

IF YOU FAIL to appear at the hearing, an order may be given in your absence and without further notice to you.

This information lets you know your rights and responsibilities in response to the Notice of Motion to Vary.

Next, the document will set out the details of the changes the other parent is asking for. For a change to a Child Support Order, the document must say whether the other parent is asking for an amount that is:

- the table amount from the *Child Support Guidelines* or a different amount and/or
- an amount for special or extraordinary expenses, as defined in the *Child Support Guidelines*

Any other Orders that the other parent is asking for, such as to remit, or reduce arrears of child support or suspend enforcement are listed here in separate numbered paragraphs.

The next page of the Notice of Motion to Vary begins with the heading Financial Information. Under this heading, the first paragraph may say:

> Attached is the petitioner's financial statement (Form 70D).

This paragraph is only included if the other parent needs to include a financial statement. If the other parent is asking to change a Child Support Order made under the *Divorce Act* and you or the other parent live outside Manitoba, the next paragraph will be:

> Attached is the moving party's affidavit containing the documents required under section 21 of the *Federal Child Support Guidelines.*

The last paragraph of the Notice of Motion to Vary lists the documentary evidence the other parent will use at the hearing. This means the Affidavit or Affidavits that have been filed to support the Notice of Motion to Vary. You must be served with a copy of each of the documents listed here.

How can I respond to a Notice of Motion to Vary?

You can respond to the Court process in the following ways:

- by agreeing or consenting to what the other parent is asking for
- by disagreeing, or opposing what the other parent is asking for
- by hiring a lawyer to represent you
- by representing yourself in Court

Go to Court for the hearing scheduled in the Notice of Motion to Vary. When there, you can let the Court know if you agree or disagree with the Motion, and if you plan to get a lawyer or plan to represent yourself in Court.

If you want a lawyer to represent you, contact the lawyer as soon as possible after you are served with the documents. Let the lawyer know the names of the documents you were served with, and the date of the hearing and if possible have that lawyer attend court on the first date.

Remember that if you do nothing, the Court can still make an Order to vary the child support amount. In this case, the Court has to make a decision without hearing from you. The decision is based only on the facts the other parent stated in his/her Affidavit(s). Without hearing from you, the Court will assume everything the other parent has stated is accurate and true.

What if I want to represent myself?

You have a right to represent yourself in Court if you want. But you should know that with this right comes the **responsibility to follow the rules of Court and Court process.**

Before you decide to use this guide, ask a lawyer what it would cost to represent you. You have the right to go to Court without a lawyer to represent you, but you need to know that in Court, you will be treated the same as a person who has a lawyer. Do not expect any special or different treatment because you don't have a lawyer. **If you do not know and follow the Court rules, you will have to live with the consequences.**

To find a lawyer:

- call the Lawyer Referral Program and get a free 30-minute appointment with a lawyer: (204) 943-2305 in Winnipeg or 1-800-262-8800 outside Winnipeg
- check the *Yellow Pages* listings
- speak to friends or family for recommendations

Even if you decide not to use a lawyer to represent you, you still should consult a lawyer before you use this guide.

If you use this guide, you are expected to:

- read the whole guide
- be familiar with the Court rules that apply
- follow the Court rules that apply

What does it mean if I'm asked to pay costs?

The Notice of Motion to Vary might include a request that you pay the other parent's Court costs. Costs can mean either an amount decided according to the schedule of costs, or *tariff* set out in the *Court of Queen's Bench Rules*, or an amount up to the full costs of the Court process, including any legal fees. At the end of a hearing, the judge decides whether or not to make an Order for payment of costs. If costs are not asked for in the Notice of Motion to Vary, the judge cannot make an Order for costs to be paid. If you consent to an order promptly and sign a consent order, the other party may forego costs or the Court may in some circumstances be persuaded not to order any costs.

You should know that you could be ordered to pay the other parent's Court costs if:

- you don't respond to the other parent's Motion
- you ask for adjournments that you don't need
- you try to delay the Court process
- you don't follow the *Court of Queen's Bench Rules* and any statute laws that apply
- you don't succeed in opposing the other parent's Motion

What is a financial statement (Form 70D)?

A financial statement is a document that sets out your financial information attached to an Affidavit. An **Affidavit** is a document that contains written facts you swear are true. The financial statement must be prepared following *Court of Queen's Bench Rules* 70.07 and 70.37 and Form 70D. **Part C** includes an example of a financial statement. You have to create this document following the *Court of Queen's Bench Rule* 70.07 and Form 70D.

The financial statement (Form 70D) has a first page and four parts. The first page is the Affidavit that you swear is true. The Affidavit must be signed and sworn to be true. That means that the person making the Affidavit, or *deponent* must sign, date and swear that the Affidavit is true in the presence of a witness. The witness must be a Commissioner for Oaths, a justice of the peace, a magistrate, a postmaster, a lawyer or a notary public. A lawyer or notary public may charge you for this service.

The four parts of the financial statement are:

- Part 1 – Annual Income
- Part 2 – Monthly Expenses
- Part 3 – Assets of Both Parties
- Part 4 – Debts of Both Parties

You don't need to file and serve a financial statement in Form 70D at all if:

- the only child support amount claimed is the table amount under the *Child Support Guidelines* and all the children that support is claimed for are under the age of 18 years
- there are no other issues of support or property raised in the Notice of Motion to Vary or your response
- your income information is not necessary to decide the amount of the changed Child Support Order

You only need to complete and attach Part 1 of the financial statement in Form 70D to your Affidavit if:

- the only child support amount claimed is the table amount under the *Child Support Guidelines* and all the children that support is claimed for are under the age of 18 years
- there are no other issues of support or property raised in the Notice of Motion to Vary or your response
- your income information is necessary to decide the amount of the changed Child Support Order

Remember that you must file and serve the financial statement within 20 days of the day that you are served with the Notice of Motion to Vary. Go to **Step Seven, Filing Documents in Court** for help with filing documents. Go to **Step Nine, Serving Documents** for help with serving documents.

What if my Child Support Order was made under the *Divorce Act*?

The same rules apply if you are responding to a Notice of Motion to Vary a Child Support Order that was made under the *Divorce Act*. If your income information is necessary to decide the amount of the new Child Support Order, you also need to file and serve:

- ❑ copy of every personal income tax return that you filed for each of the three most recent tax years
- ❑ copy of every notice of assessment or reassessment issued to you by Canada Customs and Revenue Agency for each of the three most recent tax years
- ❑ **if you are an employee**, your most recent statement of earnings showing the total earnings paid in the year to date, including overtime, or a letter from your employer setting out that information including the rate of annual salary or pay
- ❑ **if you are self-employed**, the financial statements of the your business or professional practice, other than a partnership, and a statement showing a breakdown of all salaries, wages, management fees or other payments and benefits paid to people or businesses that you are somehow related to, for each of the three most recent tax years
- ❑ **if you are a partner in a partnership**, confirmation of your income and draw from, and capital invested in the partnership, for each of the three most recent tax years
- ❑ **if you control a corporation**, the financial statements of the corporation and its subsidiaries, and a statement showing a breakdown of all salaries, wages, management fees or other payments and benefits paid to people or businesses that you are somehow related to, for each of the three most recent tax years
- ❑ **if you receive benefits from employment insurance, social assistance, a pension, workers compensation, disability payments or any other source**, the most recent statement of income that shows the total amount received from that source in the year or a letter from the provider of the benefits setting out that information
- ❑ **if you are a beneficiary under a trust**, a copy of the trust settlement agreement and copies of the trust's three most recent financial statements
- ❑ **if you cannot provide the documents required**, you must explain why you haven't attached those documents

Use this list as a checklist when you prepare your Affidavit.

Remember that you must file and serve the financial statement within 20 days of the day that you are served with the Notice of Motion to Vary. Go to **Step Seven, Filing Documents in Court** for help with filing documents. Go to **Step Nine, Serving Documents** for help with serving documents.

What if I agree to everything the other parent is asking for?

Make sure that you have read the Notice of Motion to Vary and understand what the other parent is asking for. If you agree to the Motion, there are a few ways that you can go ahead.

It's a good idea to get legal advice even if you agree with the other parent.

If you decide not to hire a lawyer to represent you, let the other parent or the other parent's lawyer know that you agree to the Motion, preferably in writing. Do this as soon as possible, before the Court date or at the first hearing. At this time, you can also ask that any claim for costs be waived, or given up.

Remember that you will still need to provide the Court and other parent or his/her lawyer with the financial information that is asked for in the Notice of Motion to Vary.

The hearing can be adjourned or postponed to file a Variation Order. The Variation Order is a document that sets out changes to the Child Support Order you agree to. Often, the Variation Order can be filed in the Court and signed by a judge without going to a formal Court hearing.

This is a document that you must review and sign before it can be filed in Court. It's a good idea to review a Variation Order with a lawyer before you sign it, even if you decided not to hire a lawyer to represent you.

When you sign the Variation Order, you have to do so in front of a witness. The person who is the witness then must complete, swear and sign the Affidavit of Execution, attached to the Variation Order. **Part C** includes an Example of a Variation Order and Affidavit of Execution. Sometimes the other parent's lawyer will prepare these and all you have to do is go to that lawyer's office to have the document witnessed.

If you agree to the other parent's Motion, get more information about this process. Go back to **Step Four, Applying to Vary a Child Support Order (when both parents agree)**.

What if I don't agree to the Motion?

You can respond to the Notice of Motion to Vary by preparing and filing your own Affidavit. Your Affidavit responds to what is contained in the Affidavit of the other parent and can also raise new issues.

You can also respond by filing a Notice of Motion to Vary requesting other changes to the current Court Order. This could include changes to custody, changes to access, or asking to forgive support that you owe. This Guide does not provide assistance with respect to changes to custody, access or issues other than child support. If you want to ask for any variations, go back to **Step Three, Applying to Vary a Child Support Order**.

There are rules and time limits for filing and serving Affidavits. Because of these, you may not be ready to go ahead on the Court date. If this is the case, you can ask to adjourn or postpone the hearing to a later date. You can ask to do this when you appear in Court on the date set for your hearing. To find out more about how to do this, go on to **Step Eleven, Family Motions Court**.

What are the rules for responding to a Notice of Motion to Vary?

The *Court of Queen's Bench Rule* 70.20(8) says that you are allowed to file one Affidavit of your own evidence in response to the Affidavit(s) filed by the other parent. The *Court of Queen's Bench Rule* 70.28(9) says that you are also allowed to file one Affidavit from each person who is not a party if that person knows information that is relevant to the Court proceeding. (For example, an employer or a doctor). Go back to **Step Five, Preparing an Affidavit** for help in preparing your Affidavit.

There are time limits for filing Affidavits. All Affidavits in response must be filed in Court within 20 days of the day that you are served with the Notice of Motion to Vary and by no later than 2 p.m. at least seven days before the contested hearing date.

Go back to **Step Seven, Filing Documents in Court** for information on how to file documents in Court.

What about serving documents?

If you respond by preparing and filing your own Notice of Motion to Vary, it must be filed in Court and served on the other parent by no later than 2 p.m. at least four days before the first Court date. An Affidavit that supports your Notice of Motion to Vary must be served on the other parent in the same time limits.

An Affidavit that responds to the other parent's Affidavit must be served on the other parent within 20 days of the day that you are served with the Notice of Motion to Vary and by no later than 2 p.m. at least seven days before the contested hearing date.

Go back to **Step Nine, Serving Documents** for information on how to serve documents on another person.

Are there limits on the how many Affidavits can be filed?

Yes. Each parent can file one Affidavit of his/her own evidence. But if your Affidavit in response raises any new issues, the other parent may respond to it by preparing and filing another Affidavit of his/her own evidence. This second Affidavit of the other parent must be filed in the Court office and served on you by no later than 2 p.m. at least four days before the Court date.

Is there anything else that I can do to respond to the Notice of Motion to Vary?

There are some additional processes that could take place before the Court hears the Motion.

A person who is served with an Affidavit may make a Motion to the Court to have all or certain parts of that Affidavit removed from the court file. This is called a Motion to Expunge.

Expunging an Affidavit must take place within very short time limits. The appropriate documents must be filed in the Court office and served on the other party within four days after the Affidavit is received. *Court of Queen's Bench Rule* 70.32 deals with this process. If you are served with a Notice of Motion to Expunge, you can respond, but must do so within three days after you are served.

A person who is served with an Affidavit can also take steps to cross-examine the person who swore the Affidavit. This process of cross-examination takes place outside of Court, and in the presence of a Court reporter who makes a written transcript of the questions asked and answers given during the cross-examination. This process can only take place after all Affidavits have been filed, and before a hearing takes place. *Court of Queen's Bench Rule* 39.02 deals with this process.

This guide is not designed to help you with motions to Expunge or cross-examinations on Affidavits. It is important, however, that you know that these processes can be used. It is also important to know they have a cost that will have to be paid for by you.

If the other parent hires a lawyer, you may find yourself faced with one or both of these processes. Depending on your case, it may be important to use these processes yourself.

If you are served with a Notice of Motion to Expunge, or if you are served with a Notice of Examination, get specific legal advice. Even if you don't hire a lawyer at this point, you should get specific legal advice.

If you think that either of these processes could help your case, you should get specific advice from a lawyer.

Step Eleven: Family Motions Court

- ❑ Have you filed a Notice of Motion or Notice of Motion to Vary? If not, go back to **Step Seven, Filing Documents in Court**.
- ❑ Have you served the documents on everyone who needs to be served? If not, or if you're not sure, go back to **Step Nine, Serving Documents**.
- ❑ Have you prepared and filed an Affidavit of Service for each person who was served? If not, go back to **Step Nine, Serving Documents**.

Some Court processes are different from one Court of Queen's Bench centre to another. Following are general descriptions of family motions procedures in Winnipeg Centre and Brandon Centre and in Courts outside Winnipeg Centre and Brandon Centre. Check with your local Court office for the details of the specific processes used in your local Queen's Bench centre.

When you go to Court for a hearing, always bring along copies of all the documents you have filed in Court and the documents you have been served with.

MOTIONS COURT WINNIPEG CENTRE and BRANDON CENTRE

What do I do when I go to Court?

In the Court of Queen's Bench Winnipeg Centre, the first Court date for a Notice of Motion to Vary will be on a Tuesday morning at 9 a.m. unless a special time has been booked with the consent of both parties. Each Tuesday morning, a Family Division Motions Court takes place.

In the Court of Queen's Bench Brandon Centre, the first Court date for a Notice of Motion to Vary will be on a Monday morning at 9 a.m. Each Monday morning, a Family Division Motions Court takes place.

On the day of your hearing, arrive at the Court at least 15 minutes before 9 a.m. When you get there, check the notice board for the list of family motions. All motions scheduled for that morning are found on the same list. This is usually quite a long list. The different files are listed in numeric order, based upon the Court file numbers. This is the number found on the upper right-hand corner of your Court documents. When you find the listing for your Motion, make a note of the number that it has been assigned on the list. If you cannot find your file on the list, go to the courtroom and check the list available there, or speak to the Court clerk for help.

Go to the courtroom. When you arrive there, you will see a person seated in the judge's chair at the front of the room. In Winnipeg, this is the family motions co-ordinator. In Brandon, this is a master of the Court of Queen's Bench.

A **master** is an officer of the Court of Queen's Bench in Manitoba who has authority to make Orders about procedure during a court proceeding and other Orders as set out in the *Court of Queen's Bench Rules*.

You will also see another person seated at a desk in front of the judge's desk. In Winnipeg, this is the Court clerk. In Brandon, this is the family motions co-ordinator.

What happens in Motions Court?

If you are ready to go ahead with your Motion, get in the line to speak to the family motions co-ordinator and wait your turn.

The family motions co-ordinator checks if the other parent is present or has a lawyer present. If you do not know, the other parent will be paged. If the other parent or his/her lawyer is present, he or she will come up to the desk to speak with you and the family motions co-ordinator.

If you both are ready to go ahead to a *contested* hearing, the family motions co-ordinator helps you schedule a day and time for the hearing. After you set a date for the contested hearing, nothing further will happen on this day provided that you agree to filing deadlines.

A contested hearing is a hearing that takes place when both parents don't agree to what one or both are asking the Court to do. For example, if one parent is asking to increase child support, and the other parent doesn't agree to the increase, a contested hearing will take place and a judge will decide for them.

What if my case is in case management?

If you are in case management, the family motions co-ordinator won't let you set a Court date. Instead your Motion must be adjourned, or postponed until after a case conference has taken place. Go back to **Step Eight, Case Management** for more information about case conferences.

What if I'm not ready to go ahead?

If you or the other parent is not ready to set a date for a hearing, you can ask to adjourn, or postpone the Motion to another date. It can be adjourned to another family motions Court date and you will have to re-attend court then.

In Winnipeg, if you and the other parent agree to adjourn the Motion to a later date, speak to the Court clerk, seated at the desk in front of the judge's desk. The Court clerk gives you a form to fill out to adjourn the hearing to another date. If you need help with the form, ask the Court clerk. When the form is completed, give it back to the Court clerk. Make sure you and the other parent note the new Court date. Nothing else happens on this day.

In Brandon, if you and the other parent agree to adjourn the Motion to a later date, remain seated in the gallery until your case is called. Then make your way to the front of the courtroom and request an adjournment from the Master. Make sure you and the other parent note the new Court date. Nothing else happens on this day.

What if the other parent and I can't agree?

If you and the other parent can't agree about setting a Court date, or about adjourning the Motion to another day, or setting deadlines for filing affidavits, you both have to go before a judge or master to decide. Get in the line to speak to the family motions co-ordinator and ask to go before a standby judge or master. The standby judge is waiting in another courtroom, to hear and decide disputes like this.

The family motions co-ordinator assigns you to a courtroom and gives you a file requisition form. Note the courtroom you are assigned to. You need this form to get the Court file for your hearing.

In Winnipeg, take the file requisition form to the Family Division desk on the 1st floor of the Court, across the hall from the security desk. Give the file requisition form to the clerk at the Family Division desk. The clerk gets the Court file for you, and asks you to fill in a receipt form, with your name and address.

Take the Court file to the courtroom the family motions co-ordinator assigned. Enter the room quietly as there may be a hearing going on when you come in. When there is a break, or if the judge is not in the room, give the Court file to the Court clerk seated in front of the judge's desk.

In Brandon, appear in court on the date and at the time set, remain seated in the gallery until your case is called.

Your names will be called out in turn. When your name is called, stand up and move to the table or desk in the front of the courtroom. The other parent or the other parent's lawyer also stands up and moves to the table.

Each parent or lawyer has a chance to speak. Remember that this is not the hearing of the Motion to Vary. This hearing is only to decide if the Motion will be scheduled for a hearing, or if it will be adjourned or postponed to another date.

Stand up when you are asked to speak. Tell the judge your name and that you are representing yourself. In the Court of Queen's Bench, address a male judge as "My Lord" and a female judge as "My Lady." Tell the judge in clear and simple words what you and the other parent can't agree about.

Listen to the judge when she or he is talking. Don't interrupt the judge. Listen carefully to what the judge says and make notes for yourself. The judge makes a decision about when your Motion will be heard and whether any steps need to be taken before then. Do what the judge says.

What if the other parent doesn't show up?

In Winnipeg, wait in the courtroom. When court opens, the Master or family motions co-ordinator starts calling out the names of cases not set for hearings or adjourned to another date. Your case should be in this list.

When your name is called, stand up and say who you are. If the other parent isn't in the courtroom and if no one else is there to represent the other parent, then the family motions co-ordinator gives you a file requisition form and sends you to appear before a standby judge. The standby judge is waiting in another courtroom to decide what to do in cases like this one.

The family motions co-ordinator assigns you to a courtroom and gives you a file requisition form. Make note of the courtroom you are assigned.

In Winnipeg, take the file requisition form to the Family Division desk on the 1st floor of the Court, across the hall from the security desk. Give the file requisition form to the clerk at the Family Division desk. The clerk gets the Court file for you and asks you to fill in a receipt form with your name and address.

Take the Court file to the courtroom the family motions co-ordinator assigned. Enter the room quietly as there may be a hearing going on when you come in. When there is a break, or if the judge is not in the room, give the Court file to the Court clerk seated in front of the judge's desk.

Your name and the other parent's name will be called out. When your name is called, stand up and move to the table or desk in front of the courtroom. You have a chance to speak to the judge. Remember that this is not the hearing of the Motion to Vary. This hearing is only

to decide when your Motion will be scheduled for a hearing or if it will be adjourned, or postponed to another date.

In Brandon, the Master will ask if there are any matters to go to the Standby Justice. Make your way to the front of the courtroom and request the Master to send your matter to the Standby Justice. The family motions co-ordinator will give you a file requisition form. Take this form to the courtroom indicated. Enter the room quietly as there may be a hearing going on when you come in. When there is a break, or if the judge is not in the room, give the requisition form to the court clerk seated in front of the judge's desk. The clerk will retrieve the file from the first courtroom you were in. Wait for your name to be called. Your uncontested hearing will be dealt with at this time.

Stand up when you are asked to speak. Tell the judge your name and that you are representing yourself. In the Court of Queen's Bench, address a male judge as "My Lord" and a female judge as "My Lady." Tell the judge in clear and simple words what your Motion is about and that the other parent did not show up in Court.

Listen to the judge when she or he is talking. Don't interrupt the judge. Listen carefully to what the judge says and make notes for yourself. The judge decides when to schedule your Motion and gives you instructions about what to do before then. Do what the judge says. In Brandon, the Justice may grant an order at this time.

MOTIONS COURT WINNIPEG and BRANDON

What do I do when I go to Court?

On the date and time for the hearing set out in the Notice of Motion to Vary, be at the Court at least 15 minutes before the hearing time. This allows you time to find the courtroom that you should be in. Be ready when your hearing is scheduled to begin. To find out where the courtroom is, check the notice board in the Court office or ask for help from Court staff.

There may be other hearings scheduled for the same time, so wait until your hearing is called. Usually, a Court clerk calls out the hearing using only the last names of both parents. If the judge is not in the courtroom when you arrive, tell the Court clerk seated at the front of the courtroom your name and you are ready to go ahead with the hearing.

What happens in Motions Court?

When your hearing is called, stand up. Usually, there will be a desk or table near the front of the courtroom with a microphone. Stand behind the desk and microphone and tell the judge your name and the name of the other parent. Tell the judge that you are representing yourself and you are ready to go ahead with the hearing.

In the Court of Queen's Bench, always address a male judge as "My Lord" and a female judge as "My Lady."

What if I'm not ready to go ahead with the hearing?

If you need to adjourn or postpone the hearing to a later date, ask the judge to adjourn the hearing and set a new Court date. Tell the judge why you need the Court date adjourned.

The other parent or the other parent's lawyer also has a chance to tell the judge whether s/he is ready to go ahead with the hearing or whether s/he needs to adjourn the hearing to a later date and why.

The judge makes a decision and tells you whether the hearing will be adjourned or go ahead. If the hearing is adjourned, the judge tells you the new date for the hearing or how to set a new date. Nothing else happens on this day.

A contested hearing is a hearing that takes place when both parents don't agree to what one or both are asking the Court to do. For example, if one parent is asking to increase child support, and the other parent doesn't agree to the increase, a contested hearing will take place and a judge will decide for them.

What if the hearing goes ahead?

If both you and the other parent are ready to go ahead with the hearing, you can expect the hearing to take place that day or to be scheduled for another day if more time is needed. It may happen at this time, or later in the day, depending on what other cases the judge may need to deal with that day. Skip ahead to **Step Thirteen, Representing Yourself in a Contested Hearing**.

What if the other parent doesn't show up?

When your hearing is called, stand up. Usually, there will be a desk or table near the front of the courtroom, with a microphone. Stand behind the desk and microphone and tell the judge your name and the name of the other parent. Tell the judge that you are representing yourself. Tell the judge you are ready to go ahead with the hearing and the other parent is not in Court.

In the Court of Queen's Bench, always address a male judge as "My Lord" and a female judge as "My Lady."

If the other parent was properly served with the Notice of Motion to Vary, has not appeared, and you filed an Affidavit of Service as proof, expect the hearing to take place. It may happen at this time or later in the day, depending on what other cases the judge may need to deal with that day. Go on to **Step Twelve, Representing Yourself in an Uncontested Hearing**.

Step Twelve: Representing Yourself in an Uncontested Hearing

- ❑ Have you prepared and filed the Affidavit of Service for each person served? If not, go back to **Step Nine, Serving Documents**.
- ❑ If the other parent agrees to your Motion, have you prepared and filed the Variation Order signed by both parents? If not, go to **Step Fourteen, Preparing the Order**.

What is an uncontested hearing?

An uncontested hearing is a hearing of a Motion in Court when there is no one opposing the Motion. Uncontested hearings take place for the following reasons:

- both parents agree to all issues
- the Motion was brought without notice to the other parent
- the other parent didn't show up in Court to oppose the Motion

If the other parent comes to Court and opposes the Motion, skip ahead to **Step Thirteen, Representing Yourself in a Contested Hearing**.

What do I do to get ready for a hearing?

When you go to Court for a hearing, always bring along copies of all the documents you have filed in Court and the documents you have been served with in this process.

Prepare what you want to say in Court. If you write this out, at least in point form, it will be easier to remember everything you want to say. Bring these notes along to Court and make sure you use them in the hearing.

On the day of the uncontested hearing, be at the Court at least 15 minutes before the hearing. This allows you time to find the courtroom you should be in. Be ready when your hearing is scheduled to begin. To find out where the courtroom is, check the notice board in the Court office or ask for help from Court staff.

What happens in an uncontested hearing?

There may be other hearings scheduled for the same time, so wait until your hearing is called. The Court clerk calls out the hearing using only the last names of both parents. If the judge is not in the courtroom when you arrive, tell the Court clerk your name and you are ready to go ahead with the hearing.

Stand up when your hearing is called. Usually, there is a desk or table near the front of the courtroom with a

microphone on it. Stand behind the microphone and tell the judge your name and the name of the other parent. Tell the judge you are representing yourself and you are ready to go ahead with the hearing.

In the Court of Queen's Bench, always address a male judge as "My Lord" and a female judge as "My Lady."

In most cases, the judge has a chance to review the documents you filed before the hearing starts. If not, the judge does so now. The judge tells you when to speak. In some cases, the judge reviews the documents you filed and makes an Order based on what is said in the documents. In other cases, the judge wants to hear what you have to you say about why the Order should be made. If you have not previously filed proof of service on the other parent, you should present that to the judge.

In any Court hearing, speak only to the Judge during the hearing. Don't speak directly to the other parent or his/her lawyer while the hearing is going on.

When you speak to the judge, speak clearly and slowly. Always be respectful. Tell the basic facts of your case and the reasons why you are asking for the Order. Use your notes or read your prepared presentation. If the judge asks you any questions, answer honestly and as best you can.

At the end of the hearing, the judge says whether or not the Order will be made. The judge says specifically what is in the Order. Do not interrupt when the judge is speaking.

Make careful notes of what the judge says. You have to prepare a document called an Order for the judge to sign, based upon what s/he has said in the courtroom. You should note the judge's response to each thing that you asked for in your Notice of Motion or Notice of Motion to Vary. Also, note the amount of the new Child Support Order, the dates for payments, the start date and the names of the children that child support is for. If you asked to reduce or remit arrears, make note of the reduced amount or the amount that is forgiven, and the schedule for paying off any arrears. If you do not understand, ask the judge to speak more slowly or repeat it. If necessary you can obtain a transcript of the judge's reasons but this has a cost.

What about my Court costs?

At the end of the hearing, the judge decides whether to order the other parent to pay all or some part of your Court costs. If you did not ask for costs in your Notice of Motion to Vary, the judge cannot order the other parent to pay your costs. If the judge does not say anything about costs in making the Order, ask about this part of your Motion before the hearing ends. The judge decides whether to order payment of costs, and on what basis, or how much.

What happens next?

If you filed a Variation Order before the hearing, or if you have the signed Variation Order with you, ask the judge to review it now. The judge signs the Variation Order that you've filed, or tells you what needs to be different or changed before it is signed. If the judge signs the Variation Order, it is filed in the Court file.

The judge tells you to send a copy of the signed Order to the other parent, including how and when you must do so.

If you do not understand any part of what the judge says, ask questions before the hearing is over to make sure that you do understand. Many times there are other motions scheduled. The judge will not want to keep other people waiting and may not have the time to answer all your questions. You may need to ask for help at the filing counter if this occurs.

If the judge signs your Variation Order, ask the court clerk for a copy of the signed Order after the hearing is over. Follow the instructions for serving the Order on the other parent as found in the last paragraph of the Order. After you've done that, you are done with this Motion.

If you didn't file an Order before the hearing or if the judge didn't sign an Order at the hearing, skip ahead to **Step Fourteen, Preparing the Order**.

Step Thirteen: Representing Yourself in a Contested Hearing

- ❑ Have you prepared and filed the Affidavit of Service for each person served? If not, go back to **Step Nine, Serving Documents**.
- ❑ Does the other parent agree to your Motion? If so, go back to **Step Twelve, Representing Yourself in an Uncontested Hearing**.

What is a contested hearing?

A contested hearing is a hearing of a Motion in Court where the two parents do not agree to the issues raised in the Motion. The parents might agree to some but not all issues, or they might not agree to any issues.

If the other parent comes to Court and no longer opposes the Motion, go back to **Step Twelve, Representing Yourself in an Uncontested Hearing**.

Before the contested hearing date, the both parents or their lawyers must file and serve a Motion Brief.

What is a Motion Brief?

A Motion Brief is a document that lets the judge know which issues need to be decided at the contested hearing, and what documents from the Court file to read before the hearing. **Part C** includes an example of a Motion Brief. The Motion Brief is prepared according to *Court of Queen's Bench Rule* 70.22 Form 70R.

The person who filed the Motion must file and serve the Motion Brief in the following time limits:

- five days before the contested hearing date
- two days before the contested hearing date, if the contested hearing date is within seven days after the date is set

The person responding to the Motion must file and serve the Motion Brief in the following time limits:

- two days before the contested hearing date
- one day before the contested hearing date, if the contested hearing date is within seven days after the date is set

The Motion Brief must include the following information:

- the issues that are not agreed on
- a list of documents that you will refer to in the hearing including the date that the document was filed in Court
- your position on each of the issues
- listing of relevant cases and statute laws that you will rely on in the hearing
- precise calculations of the amount of child support to be paid and any amount of arrears to be remitted and the basis for why the amounts to be remitted are appropriate.

What do I do to get ready for a hearing?

When you go to Court for a hearing, always bring copies of all the documents you filed in Court and the documents you have been served with in this process.

Prepare what you want to say in Court. If you write this out, at least in point form, it will be easier to remember everything you want to say. Bring these notes along to Court and make sure you use them in the hearing.

On the day of the contested hearing, be at the Court at least 15 minutes before the hearing time. This allows you time to find the courtroom that you should be in. Be ready when your hearing is scheduled to begin. DO NOT BE LATE. To find out where the courtroom is, check the notice board in the Court office or ask for help from Court staff.

What happens in a contested hearing?

Contested motions to vary a Child Support Order usually follow the order below:

1. The person who filed the Motion explains to the judge why the change to the Child Support Order should be made, and what amount of child support should be paid.
2. The person responding to the Motion explains to the judge why the change to the Child Support Order should not be made, and what amount of child support should be paid, if any.

3. The person who filed the Motion briefly responds to the comments of the other parent or his/her lawyer.
4. The judge decides whether or not the Motion for a change to the Child Support Order will be allowed and briefly explains the reasons for the decision.

There may be other hearings scheduled for the same time, or just before or after your hearing, so wait until your hearing is called. The Court clerk calls out the hearing using only the last names of both parents. If the judge is not in the courtroom when you arrive, tell the Court clerk your name and you are ready to go ahead with the hearing.

Stand up when your hearing is called. Usually, there is a desk or table near the front of the courtroom, with a microphone on it. Stand behind the microphone and tell the judge your name and the name of the other parent. Tell the judge you are representing yourself and you are ready to go ahead with the hearing.

In any Court hearing, speak only to the Judge during the hearing. Don't speak directly to the other parent or his/her lawyer while the hearing is going on.

In the Court of Queen's Bench, always address a male judge as "My Lord" and a female judge as "My Lady."

When you speak to the judge, speak clearly and slowly. Always be respectful. Tell the basic facts of your case and the reasons why you are asking for the Order. Use your notes or read your prepared presentation. If the judge asks you any questions, answer honestly and as best you can.

Sometimes the judge asks that you keep to certain time limits in presenting your side of the case. The judge will let you know at the beginning of the hearing if there are any time limits. Generally, if a hearing is scheduled for 45 minutes, plan to speak for up to 15 minutes. If a hearing is scheduled for 60 minutes, plan to speak, if you need to, for up to 20 minutes.

When the other parent or his/her lawyer is speaking, do not interrupt if you disagree with what is said. If you spoke first, you have a chance to respond afterwards. It is a good idea to write a note for yourself about what you disagree with, so that you will remember to say this when you have the chance to respond.

When both sides have finished speaking, the judge speaks. While the judge is speaking, remain seated. It is a good idea to make some notes about what the judge says. The judge summarizes what each side said and then tells you what the decision is. Do not interrupt the judge.

Carefully write down the decision of the judge, including the new amount of child support, the date when these payments will start, and the names of the children the support is for.

The judge makes an Order and says specifically what is in the Order. It is very important that you make detailed notes of what the judge says, because you will have to prepare a document called a **Variation Order** for the judge to sign based upon the decision in the courtroom.

Part of the judge's Order will be to send a copy of the Variation Order to the other parent. The judge says exactly how and in what time limits to do so.

If you do not understand any part of the judge's Order, stand up and ask questions before the hearing is over to make sure that you do understand.

What about my Court costs?

At the end of the hearing, the judge decides whether to order the other parent to pay all or some part of your Court costs. If you did not ask for costs in your Notice of Motion to Vary, the judge cannot order the other parent to pay your costs. If the judge does not say anything about costs in making the Order, ask about this part of your Motion before the hearing ends. The judge decides whether to order payment of costs, and on what basis, or how much.

Go on to **Step Fourteen, Preparing the Order**.

Step Fourteen: Preparing the Order

- ❑ Has a judge made a decision at a hearing? If so, continue with this step.
- ❑ If not, do you and the other parent agree to vary the Child Support Order? If not, go back to **Step Eleven, Family Motions Court**. If so, continue with this step to prepare a Variation Order.

After a hearing takes place and a judge makes an Order, the parent who filed the Notice of Motion or Notice of Motion to Vary must prepare a document that says what the judge ordered. This document is called an **Order**. The Order sets out what the judge ordered in written form. The judge or Court registrar must sign the Order.

What do I need to know about Orders?

There are different kinds of Orders in the Court of Queen's Bench Family Division. An Order that is made after hearing of a Motion is called:

- Interim Order
- Variation Order

The rules for preparing an Order are found in *Court of Queen's Bench Rule* 70.31. In the Family Division, an Order must use the wording of the Automated Court Order Standard Clauses. You can find Automated Court Order Standard Clauses at the Manitoba Courts web site at www.manitobacourts.mb.ca or you can get them through the Court of Queen's Bench Family Division (Winnipeg Centre). You cannot prepare an Order without the Automated Court Order Standard Clauses.

Automated Court Order Standard Clauses are used in preparing an Order in the Court of Queen's Bench Family Division. In most cases, you must use the wording of the Automated Court Order Standard Clauses. Get a copy of the Automated Court Order Standard Clauses before you prepare your Order.

Part C includes an example of a Variation Order and an Interim Order. The examples include a variety of possible clauses. You have to decide which clauses to use based on the Order of the judge. Be sure to follow the instructions in the Automated Court Order Standard Clauses.

What goes in an Order?

The first part of an Order is called the *preamble*. The preamble includes the following information:

- the date of the hearing
- the name of each parent who was present and whether he or she was represented by a lawyer
- the name of each parent who was absent and whether he or she was represented by a lawyer
- whether the parents consent to the Order or any part of it
- the documents that were filed in support of the motion
- any promise or *undertaking* that either parent (or his/her lawyer) made as a condition of the Order

If the Order is a Variation Order, the preamble also must say:

- the date of the Order being varied and the name of the judge who made it
- the date of any earlier Variation Order and the name of the judge who made it

The next paragraph says which statute or rule the Order is made under.

Then following from here are the paragraphs that set out the specific Orders the judge made. Use the sequence of the Automated Court Order Standard Clauses as a guide when you prepare the Order.

If the Order is a Variation Order, the clause(s) of the original Order or earlier Variation Order that are to be deleted or replaced must be repeated exactly. Then, the wording of the new clause is set out.

The last paragraph of the Order sets out the instructions for serving a copy of the signed Order on the other parent and any others that must be served.

The Order ends with a space for the date, and the signature of the judge.

Below the judge's signature, set out space for each parent or his/her lawyer to approve the form of the Order by signing it. Each parent or his/her lawyer must approve the form of the Order that you have prepared unless the judge directs otherwise. If a parent has a lawyer, the lawyer must approve the form of the Order; otherwise, the parent must do so.

If the Order is made with the consent of the parents, this is followed by space for each parent or their lawyers to sign, showing his/her consent or agreement. If either parent doesn't have a lawyer, that parent must also attach a document called an **Affidavit of Execution** to the Order.

An Affidavit of Execution is a kind of Affidavit that proves that the person who signed the document was the person who should sign it and that the person signed it willingly. **Part C** includes an example of an Affidavit of Execution, with the Variation Order.

Like other Affidavits, the Affidavit of Execution must be signed and sworn to be true. That means that the person making the Affidavit or *deponent* signs, dates and swears that the Affidavit is true in the presence of a witness. The witness must be a Commissioner for Oaths, a justice of the peace, a magistrate, a postmaster, a lawyer or a notary public. A lawyer or notary public may charge you for this service.

What do I do after I have prepared the Order?

Make at least three copies of the document.

Make sure that each parent or his/her lawyer has signed each copy of the Order to show that they approve the form of the Order that you have prepared. If a parent has a lawyer, the lawyer must approve the form of the Order; otherwise, the parent must do so, unless the judge has directed otherwise.

If the Order or any part of it is made by consent, make sure that both parents or their lawyers have signed their consent on all three copies.

What if my Child Support Order is enforced by the Maintenance Enforcement Program?

You have to prepare and complete a document called **Enforcement Information** if your Child Support Order is:

- made under *The Family Maintenance Act*
- made under the *Divorce Act* and payments are made through the Maintenance Enforcement Program

The Enforcement Information document is prepared following the *Court of Queen's Bench Rule* 70.31(15) and Form 70W. An example of the Enforcement Information is included in **Part C.**

If you don't want your Child Support Order enforced by the Maintenance Enforcement Program, you must prepare and complete a document called **Enforcement Opt-Out** following the *Court of Queen's Bench Rule* 70.31(15) and Form 70X. Only the parent who receives child support can decide to opt out of the Maintenance Enforcement Program. An example of the Enforcement Opt-Out is included in **Part C.**

What happens when I file the Order?

Take all three copies of the Order to the Court office and file them. If the Order contains a Child Support Order, you must also file one copy of the Enforcement Information or two copies of the Enforcement Opt-Out.

After filing, the documents are checked by the judge, master or deputy registrar to make sure that they are complete and accurate. If the Order is correct, the judge, master or deputy registrar signs it.

When the judge signs the Variation Order, the original signed Order stays in the Court file. A copy of the signed document is returned to the parent who filed it, who must mail a copy of this Order to the other parent as directed by the Order. Another copy is sent to the Maintenance Enforcement Office if the child support payments are made through the Maintenance Enforcement Program.

If the judge does not sign the Order, all copies are returned to the parent who filed it with a **Notice of Rejection**. The Notice of Rejection tells you the reason the Order was not signed and usually also tells you what you need to do next. If this happens and you're unsure what to do next, contact the Court office for more information. At this point, it may be helpful to get advice from a lawyer.

A copy of the signed Order must be sent or delivered to the other parent. Do this in the way the judge ordered and within the time frame the judge ordered.

If you got an Interim Order for the other parent to provide financial information, go back to **Step Three, Applying to Vary a Child Support Order**.

If you obtained a Variation Order, the process to vary your Child Support Order is now complete.

PART C

Preparing Court Documents

In this section, the rules for preparing documents for the Court of Queen's Bench are summarized. Examples of each of the documents in this guide are provided. Each example shows you the document in blank form, with instructions for how to complete it. You will have to create each documents you need for yourself, filling in the information and details that apply to you.

Before you prepare any documents, review the Rules for Preparing Court Documents found on this page.

For complete information about how to prepare documents for the Court of Queen's Bench, read the *Court of Queen's Bench Rules*. The *Court of Queen's Bench Rules* also contain the blank forms for each of the documents included in this Guide. You can buy these rules through Manitoba's Statutory Publications:

Statutory Publications
200 Vaughan Street
Winnipeg, MB R3C 1T5
945-3101
Fax: 945-7172
Toll-free: 1-800-321-1203

You can also find the rules in your local Court library, at the University of Manitoba Law Library, and on the Internet at: www.gov.mb.ca/chc/statpub/free/index.html

The following examples are included in this Guide:

1. Cover page, Queen's Bench Form 4C
2. Affidavit, Queen's Bench Form 4D
3. Requisition, Queen's Bench Form 4E
4. Notice of Intention to Act in Person, Queen's Bench Form 15C
5. Acknowledgement of Receipt Form, Queen's Bench Form 16A
6. Affidavit of Service, Queen's Bench Form 16B
7. Financial Statement, Queen's Bench Form 70D
8. Notice of Motion to Vary, Queen's Bench Form 70H
9. Variation Order, Queen's Bench Form 70N
10. Affidavit of Execution (by Petitioner and by Respondent)
11. Interim Order, Queen's Bench Form 70N
12. Notice of Motion, Queen's Bench Form 70Q
13. Motion Brief, Queen's Bench Form 70R
14. Case Management Information Statement, Queen's Bench Form 70S
15. Request for Adjournment, Queen's Bench Form 70T
16. Enforcement Information, Queen's Bench Form 70W
17. Enforcement Opt-Out, Queen's Bench Form 70X
18. Notice of Change of Name, Queen's Bench Form 70AA

Rules for Preparing Documents in Court of Queen's Bench

The *Court of Queen's Bench Rules* set out the rules for what your Court documents must look like. The examples of documents in this Part follow these rules.

When you create your Court documents, make sure to:

- prepare all Court documents on clean, white 8 1/2" x 11" paper

PART C
Preparing Court Documents

- use only one side of the paper
- type, use a computer, or write clearly and neatly
- leave a left margin of 40 mm/ 4 cm (1.7 inches)
- use double-spacing or write only on every second line
- use page numbers at the bottom of each page
- do not have a page with only a signature on it
- show any dates, sums and numbers in numeric form (e.g. January 13, not January thirteen; or 12 days, not twelve days)

1. Cover Page – Form 4C

Use File Number from most recent Court documents.

File No. FD _____

Fill in city or town of Court, from most recent Court documents or new centre, if file has been transferred.

THE QUEEN'S BENCH (FAMILY DIVISION)

_____ CENTRE

BETWEEN

Full name of Petitioner, as on most recent Court documents.

(full name),

petitioner,

-and-

Full name of Respondent, as on most recent Court documents.

(full name),

respondent.

Fill in Court date if document is a Notice of Motion, Notice of Motion to Vary, Notice of Application or Notice of Appeal. Otherwise, leave blank or delete.

Fill in Name of Document. If an Affidavit, name is *Affidavit* of *(name of person)*.

(NAME OF DOCUMENT)

Hearing Date: _____

Sworn the ___ day of _____, 20__

If document is an Affidavit, fill in date sworn or affirmed. Otherwise, leave blank or delete.

Name of Party Representing Self
Mailing Address
City, Province
Telephone #
Fax #

Contact information of the person who files the document, or his/her lawyer.

2. Affidavit – Form 4D

Use File Number from most recent Court documents.

File No. FD _____

Fill in city or town of Court centre, from most recent Court documents, or new centre, if file has been transferred.

THE QUEEN'S BENCH (FAMILY DIVISION)

_____ CENTRE

BETWEEN:

(full name),

Full name of Petitioner, as on most recent Court documents.

petitioner,

– and –

(full name),

Full name of Respondent, as on most recent Court documents.

respondent.

Name of Document includes full name of **deponent** – person who is making the Affidavit.
Attach a Cover Page in Queen's Bench Form 4C.

AFFIDAVIT OF _____

Full name of **deponent** – person who is making the Affidavit.

City/Town/Postal District.

I, _____, of the _____ of

_____, in the Province of _____,

Name of city/town/postal district.

A series of numbered paragraphs that set out the facts that support the Motion. Keep each paragraph brief, and limited to just one fact or idea. Attach documents as Exhibits.

MAKE OATH AND SAY THAT:

1.

2.

3. Attached to this Affidavit and marked as Exhibit ____ is a copy of

_____.

Strike out words as necessary. Fill in name of place where document is sworn or affirmed, name of province and date that document is sworn or affirmed.

SWORN/AFFIRMED before me)
in the _____ of)
_____, in the)
Province of _____,)
on _____, 20___.)
_____)
Commissioner for Oaths)

_____
(Signature of deponent)

Deponent signs here, in front of a witness.

3. Requisition – Form 4E

Use File Number from most recent Court documents.

File No. FD _____

Fill in city or town of Court, from most recent Court documents.

THE QUEEN'S BENCH (FAMILY DIVISION)

_____ CENTRE

BETWEEN:

Full name of Petitioner, as on most recent Court documents.

(full name),

petitioner,

– and –

Full name of Respondent, as on most recent Court documents.

(full name),

respondent.

Name of document.
Attach a Cover Page in Queen's Bench Form 4C before filing in Court.

REQUISITION

TO THE REGISTRAR

_____ CENTRE

Fill in name of current Court centre, as on top of Page.

Fill in name of Court Centre that file is to be transferred to.

I REQUIRE transfer of the action herein to _____ judicial centre under rule 14.08.

Petitioner or lawyer signs here.

_____

Name of Petitioner or Lawyer
Address
Telephone Number

Fill in date Requisition is filed.

_____

Respondent or lawyer signs here.

_____

Name of Respondent or Lawyer
Address
Telephone Number

4. Notice of Intention to Act in Person – Form 15C

Use File Number from most recent Court documents.

File No. FD _____

Fill in city or town of Court, from most recent Court documents.

THE QUEEN'S BENCH (FAMILY DIVISION)

_____ CENTRE

BETWEEN:

(full name),

Full name of Petitioner, as on most recent Court documents.

petitioner,

– and –

(full name),

Full name of Respondent, as on most recent Court documents.

respondent.

Name of document.
Attach a Cover Page in Queen's Bench Form 4C before filing in Court.

NOTICE OF INTENTION TO ACT IN PERSON

Fill in Petitioner or Respondent.

Fill in full name of your lawyer of record.

The _____, formerly represented by _____, lawyer of record, intends to act in person.

Date you sign.

_____
(Date)

Sign your name. Fill in your full name, address and telephone number.

_____
(Name, address for service and telephone number of party to act in person)

TO: (name and address of former lawyer of record)

Fill in name and address of your former lawyer and of other parent's lawyer, or other parent.

AND TO: (name and addresses of lawyers for all other parties, or names and addresses of all other parties)

5. Acknowledgement of Receipt Form – Form 16A

Use File Number from most recent Court documents.

File No. FD _____

Fill in city or town of Court from most recent Court documents, or new centre if File has been transferred.

THE QUEEN'S BENCH (FAMILY DIVISION)

_____ CENTRE

BETWEEN:

Full name of Petitioner, as on most recent Court documents.

(full name),

petitioner,

– and –

Full name of Respondent, as on most recent Court documents.

(full name),

respondent.

This form is enclosed when serving documents by mail according to *Court of Queen's Bench Rule* 16. Attach a Cover Page in Queen's Bench Form 4C before filing in Court.

Fill in name of person served.

ACKNOWLEDGEMENT OF RECEIPT FORM

TO: (full name)

You are served by mail with the documents enclosed with this form in accordance with the *Court of Queen's Bench Rules*.

You are requested to sign the acknowledgement below and mail this form immediately after you receive it. If you fail to do so, the documents may be served on you in another manner and you may have to pay the costs of service.

ACKNOWLEDGMENT OF RECEIPT

I ACKNOWLEDGE that I have received a copy of the following documents:

(To be completed in advance by the sender of the documents. Include sufficient particulars to identify each document).

List names of each document included, in a way that clearly describes each document.

_____

(Signature of person served)

(The reverse side of this form must bear the name and address of the sender and the required postage).

Attach a self-addressed, stamped envelope.

6. Affidavit of Service – Form 16B

Use File Number from most recent Court documents.

File No. FD _____

Fill in city or town of Court, from most recent Court documents or new centre if File has been transferred.

THE QUEEN'S BENCH (FAMILY DIVISION)

_____ CENTRE

BETWEEN:

Full name of Petitioner, as on most recent Court documents.

(full name),

petitioner

– and –

Full name of Respondent, as on most recent Court documents.

(full name),

respondent.

Name of Document.
Attach a Cover Page in Queen's Bench Form 4C.

AFFIDAVIT OF SERVICE

Full name of **deponent** – person who is making the Affidavit.

City/Town/Postal District.

I, _____, of the _____ of _____,

in the Province of _____,

Name of City/Town/Postal District.

MAKE OATH AND SAY THAT:

Use wording provided based on the way that documents were served. Delete all other wording.
Fill in blanks as indicated.
Attach documents as Exhibits.

(Personal Service)

1. On (date), at (time), I served (identify person served) with the (identify documents served) by leaving a copy with him (or her) at (address where service was made). (Where the rules provide for personal service on a corporation, etc. by leaving a copy of the document with another person, substitute: by leaving a copy with (identify person by name and title) at (address where service was made)).
2. I was able to identify the person by means of (state the means by which the person's identity was ascertained.)

(Service by leaving a copy with an adult person in the same household as an alternative to personal service)

1. I served (identify person served) with the (identify documents served) by leaving a copy on (date), at (time), with a person (insert name if known) who appeared to be an adult member of the same household in which (identify person served) is residing, at (address where service was made), and by sending a copy by regular lettermail (or registered or certified mail) on (date) to (identify person served) at the same address.
2. I ascertained that the person was an adult member of the household by means of (state how it was ascertained that the person was an adult member of the household).
3. Before serving the documents in this way, I made an unsuccessful attempt to serve (identify person) personally at the same address on (date). (If more than one attempt has been made, add: and again on (date).)

(Service by registered mail as an alternate to personal service)

1. On (date), I sent to (identify person served) by registered mail with Canada Post Corporation item # _____ attached to the envelope, a copy of the (identify documents served).
2. Attached is the confirmation of delivery receipt obtained from Canada Post Corporation for item # _____ showing the envelope was delivered to (identify person served) on (date of receipt).
3. The item # on the confirmation of delivery receipt is identical to the item number on the registered mail receipt obtained from Canada Post Corporation for the envelope sent to (address where mail was delivered).

(Service by certified mail as an alternative to personal service)

1. On (date), I sent to (identify person served) by certified mail a copy of the (identify documents served).
2. I received the attached receipt card from Canada Post Corporation which indicates the documents were received on (date) and which bears a signature that purports to be the signature of (identify person).

(Service by regular lettermail as an alternative to personal service)

1. On (date), I sent to the (identify person served) by regular lettermail a copy of the (identify documents served) together with an acknowledgement of receipt form.
2. On (date), I received the attached acknowledgement of receipt form bearing a signature that purports to be the signature of (identify person).

(Service by regular lettermail on a lawyer)

1. I served (identify person served) with the (identify documents served) by sending a copy by regular lettermail (or registered or certified) mail on (date) to (name of lawyer), the lawyer for the (identify party), at (full mailing address).

(Service by fax on a lawyer)

1. I served (identify person served) with the (identify documents served) by sending a copy by fax to (fax number) on (date) to (name of lawyer), the lawyer for the (identify the party or person).

(Service by courier on a lawyer)

1. I served (identify person served) with the (identify documents served) by sending a copy by (name of courier), a courier, to (name of lawyer), the lawyer for the (identify the party or person), at (full address of place for delivery).
2. The copy was given to the courier on (date).

(Service by regular lettermail on a party acting in person or a non-party)

1. I served (identify party or person served) with the (identify documents served) by sending a copy by (registered or certified) mail or regular lettermail on (date) to (full mailing address), the last address for service provided by (identify party or person) (or, where no such address has been provided, the last known address of (identify party or person).)

SWORN/AFFIRMED before me)
in the _____ of)
_____, in the)
Province of _____,)
on _____, 20___.)
)
_____)
Commissioner for Oaths)
(or as may be)

Deponent signs here, in front of a witness.

_____
(Name of deponent)

Strike out words as necessary.
Fill in name of place where document is sworn or affirmed, name of province and date that document is sworn or affirmed.

7. Financial Statement – Form 70D

Use File Number from most recent Court documents.

File No. FD_____

Fill in City or Town of Court, from most recent Court documents, or new Centre, if File has been transferred.

THE QUEEN'S BENCH (FAMILY DIVISION)

_____ CENTRE

BETWEEN:

Full name of Petitioner, as on most recent Court documents.

(full name),

petitioner,

– and –

Full name of Respondent, as on most recent Court documents.

(full name),

respondent.

Name of Document.
Attach as Exhibit to an Affidavit, or attach a Cover Page in Queen's Bench Form 4C.

Petitioner or Respondent.

FINANCIAL STATEMENT OF _____

Full name of **deponent** – person who is making the Affidavit.

Fill in City or Town.

I, _____, of the _____

of _____ _____, in the province of _____,

Name of City or Town.

Name of province.

SWEAR (or AFFIRM) THAT:

1. Attached are the following:
[ ] Part 1 — Annual Income
[ ] Part 2 — Monthly Expenses
[ ] Part 3 — Assets of Both Parties
[ ] Part 4 — Debts of Both Parties

Check off which Parts are attached. Check the *Court of Queen's Bench Rules* 70.05, 70.07 (4) to (8), 70.37(6), (8) and (10) to decide which information you need to include.

2. To the best of my knowledge, information and belief, the information set out in this financial statement is true and complete.

Deponent signs here, in front of a witness.

SWORN (or affirmed) before me at the)
_____ of _____,)
in the Province of Manitoba,)
this _____ day of _____ , _____.)

_____

Strike out words as necessary. Fill in name of place where document is sworn or affirmed, name of province and date that document is sworn or affirmed.

A Commissioner for Oaths in and for the Province of Manitoba
My Commission expires: _____

PART 1 – ANNUAL INCOME

Check boxes that apply to you. Fill in details as shown in *italics*.

1. I am

[ ] employed as (*describe occupation*)

_____

by (*name and address of employer*)

_____

_____.

[ ] self-employed, carrying on business under the name of (*name and address of business*)

_____

_____.

[ ] unemployed since

_____.

2. (a) Attached are copies of my Canada Customs and Revenue Agency income and deduction computer printouts for each of the three most recent taxation years

_____, _____, _____.

Fill in years of printouts attached.

(b) I cannot obtain the printouts for the years

Fill in years of printouts that aren't attached and reasons why not.

_____, _____, _____

because (*give reasons*)

_____

_____.

3. (a) I expect my total income for this year to be as follows:

Fill in the annual amount for all sources of income, as listed.

SOURCES OF INCOME

Employment income (*wages, salary, commissions, including overtime and bonuses*)				_____
Other employment income (*including tips and gratuities*)				_____
Old age security pension				_____
Canada or Quebec Pension Plan benefits				_____
Other pensions or superannuation				_____
Employment insurance benefits				_____
Taxable amount of dividends from taxable Canadian corporations				_____
Interest and other investment income				_____
Net partnership income				_____
Rental income	Gross	_____	Net	_____
Taxable capital gains				_____
Spousal support				_____
Child support (*taxable only*)				_____
Registered Retirement Savings Plan income				_____
Business income	Gross	_____	Net	_____
Professional income	Gross	_____	Net	_____
Commission income	Gross	_____	Net	_____
Farming income	Gross	_____	Net	_____
Fishing income	Gross	_____	Net	_____
Workers' Compensation benefits				_____
Social Assistance payments				_____
Net federal supplements				_____
Other income (*specify*)				_____

Add up amounts and fill in Total.

(A) TOTAL ANNUAL INCOME: _____

Total income as declared in most recent personal income tax return _____ _____
(year)

Fill in year of income tax return and Total income amount.

Fill in amounts of additions to income as listed.

ADJUSTMENTS TO INCOME

Additions:

Actual amount of dividends received from Canadian corporations _____

Actual capital gains realized in excess of actual capital losses _____

Salaries, benefits or other payments paid to non-arm's length persons, and deducted from self-employment income, unless necessary to earn self-employment income _____

Allowable capital cost allowance for real property _____

Employee stock options with a Canadian-controlled private corporation exercised. *(Do not include if you dispose of the shares in the same year you exercise the option.)* _____

Value of shares at the time the options are exercised	_____	_____
Less: Amount paid for the shares	_____	_____
Amount paid to acquire the options to purchase the shares	_____	_____
=	_____	_____

(B) TOTAL ADDITIONS: _____

Add up amounts of additions and fill in Total.

Fill in annual amounts of deductions from your income, as listed.

Deductions:

Union, professional dues and other employment expenses allowed under Schedule III _____

Child support received and included in total income above _____

Spousal support received from the other parent and included in total income above _____

Social assistance received by the parent for other members of the household _____

Taxable amount of dividends from taxable Canadian corporations _____

Taxable capital gains _____

Actual amount of business investment losses _____

Carrying charges and interest expenses _____

Self-employment income, net of reserves, included in income for tax purposes in excess of the self-employment income for the 12 months ending on December 31 of the reporting year _____

Portion of partnership and sole proprietorship income that is required by the partnership to be re-invested _____

(C) TOTAL DEDUCTIONS: _____

Add up amounts of deductions and fill in Total.

Adjust Annual Income for Child Support Guidelines Table Amount to deduct spousal support paid, or add spousal support received.

Fill in sum of:
A + B - C, from above.

Annual Income for Child Support Guidelines Table Amount
(Total income (A) plus additions (B) less deductions (C))

_____

Annual Income for Special or Extraordinary Expenses Amount
(Annual Income for Child Support Guidelines Table Amount less spousal support paid to the other parent, or, plus spousal support received from the other parent, as applicable)

_____

Fill in (b) only if necessary. Fill in details of child support received and details of non-taxable benefits, allowances and amounts.

(b) *(Do not complete this section where the only relief claimed is a table amount of child support under the child support guidelines and all children for whom relief is sought are under the age of majority.)*

(i) I receive child support for the following persons who are not the subject of this application:

Name	Annual amount	Taxable or not *(indicate)*
_____	_____	_____

(ii) I receive the following non-taxable benefits, allowances or amounts: *(This includes items such as use of a vehicle and room and board. Where the benefit is not an amount, include an estimate of the value of the benefit on an annual basis.)*

Benefit	Benefit	Annual amount or value
_____	_____	_____

(Note: It is not necessary to complete Parts 2, 3 or 4 where the only relief claimed is a table amount of child support under the child support guidelines and all children for whom relief is sought are under the age of majority.)

Fill in Parts 2, 3 or 4 only if necessary. Otherwise, this is the end of the Financial Statement (Form 70 D).

PART 2 – MONTHLY EXPENSES

You don't need to complete Part 2 of the Financial Statement if:

- the only child support amount claimed is the table amount from the Child Support Guidelines
- the children for whom support is sought are all under the age of 18 years
- there are no other issues of support or property raised in the Notice of Motion to Vary
- your income information is necessary to decide the amount of the new Child Support Order

4. My monthly expenses are as follows and are for me and the following members of my household:_____

(If the payment of an expense is shared with another person, insert only the amount that you pay. Convert all expenses incurred in a year, whether on a yearly, quarterly, weekly, or other basis, to monthly amounts. Give actual amounts where known or you can obtain the information. If this is impossible, give estimates.)

Compulsory Deductions	
Income Tax	$ _____
Employment insurance	$ _____
Canada Pension Plan	$ _____
Employer pension	$ _____
Union dues	$ _____
Insurance	$ _____
Other *(specify)*	$ _____
Household Expenses	
Groceries and household supplies	$ _____
Meals outside the home	$ _____
Telephone	$ _____
Cable television	$ _____
Laundry and dry cleaning	$ _____
Newspapers, publications	$ _____
Stationery, computer supplies	$ _____
Vacation	$ _____
Pet care	$ _____
Housing (primary residence)	
Rent or mortgage	$ _____
Taxes	$ _____
Home Insurance	$ _____
Heat	$ _____
Water	$ _____
Hydro	$ _____
House repairs and maintenance	$ _____
Yard maintenance	$ _____
Other *(specify)*	$ _____
Health	
Medical Insurance	$ _____
Drugs (Net of coverage)	$ _____
Dental Care (Net of coverage)	$ _____
Optical Care (Net of coverage)	$ _____
Other *(specify)*	$ _____
Transportation	
Public transit, taxis, etc.	$ _____
Car operation	$ _____
Gas and Oil	$ _____
Insurance and licence	$ _____
Maintenance	$ _____
Parking	$ _____
SUBTOTAL	$ _____

SUBTOTAL	$ _____
Adult Household Members	
Clothing	$ _____
Haircare	$ _____
Toiletries, cosmetics	$ _____
Education fees, supplies	$ _____
Entertainment and recreation	$ _____
Fitness	$ _____
Insurance	$ _____
Charitable donations	$ _____
Gifts to others	$ _____
Alcohol, tobacco	$ _____
Children	
Child care	$ _____
Babysitting	$ _____
Clothing	$ _____
Haircare	$ _____
Allowances	$ _____
School fees and supplies	$ _____
Entertainment and recreation	$ _____
Insurance	$ _____
Gifts (toys, books, etc.)	$ _____
Camp	$ _____
Gifts to other children	$ _____
Savings for the future	
RRSP	$ _____
RESP	$ _____
Debt (other than mortgage repayment) (calculated as in Part 4)	$ _____
Lease payments *(specify)*	$ _____
Support payments to others *(specify)**	$ _____
Reserve for income taxes	$ _____
Other *(specify)*	$ _____
TOTAL	$ _____

Fill in amounts of monthly expenses for your household. Add up total of first column at the bottom (Sub-total). Fill in sub-total of first column at top of second column. Add up total of both columns at bottom of second column.

** List only persons whose support is not at issue in this application. Specify the person who is supported, whether the payments are tax deductible to you, and whether they are voluntary or pursuant to a court order or agreement.*

5. *(Complete only if claiming child support and special or extraordinary expenses.)*

If you are claiming special expenses, fill in details of those expenses here.

I have the following special or extraordinary expenses for the named children:

(a) Child care expenses

Name of child_____ Gross annual cost Net annual cost

_____ _____ _____

(specify expense)

_____ _____ _____

(b) Health-related expenses that exceed insurance reimbursement by at least $100 annually

Name of child_____ Gross annual cost Net annual cost

_____ _____ _____

(specify expense)

_____ _____ _____

(c) Extraordinary expenses for primary or secondary school education or for any educational programs that meet the child's particular needs

Name of child_____ Gross annual cost Net annual cost

_____ _____ _____

(specify expense)

_____ _____ _____

(d) Post-secondary education

Name of child_____ Gross annual cost Net annual cost

_____ _____ _____

(specify expense)

_____ _____ _____

(e) Extraordinary expenses for extracurricular activities

Name of child_____ Gross annual cost Net annual cost

_____ _____ _____

(specify expense)

_____ _____ _____

PART 3 – ASSETS OF BOTH PARTIES

You don't need to complete Part 3 of the Financial Statement if:
- the only child support amount claimed is the table amount from the Child Support Guidelines
- the children for whom support is sought are all under the age of 18 years
- there are no other issues of support or property raised in your Notice of Motion to Vary
- your income information is necessary to decide the amount of the new Child Support Order

6. Our assets are as follows:

(Include all assets, whether or not shareable under The Marital Property Act, including jointly owned assets. Where there is a claim under The Marital Property Act, identify with an asterisk (*) those assets alleged to be non-shareable. Do not complete the column headed "Market Value at Date of Separation" if there is no claim under The Marital Property Act.)

In this column, fill in P or R to show who possesses the asset listed.

Fill in current re-sale value of each asset.

Leave blank if you are divorced or were never married to the other parent.

	Asset in Possession of Petitioner (P) or Respondent (R)	Present Market Value	Market Value at Date of Separation
Real estate (municipal address)	_____	$_____	$_____
Cars, boats, vehicles (year, make, model)	_____	$_____	$_____
Household goods, furniture and appliances	_____	$_____	$_____
Tools, sports and hobby equipment	_____	$_____	$_____
Banks accounts and cash on hand	_____	$_____	$_____
R.R.S.P.	_____	$_____	$_____
Bonds, shares, term deposits, investment certificates, mutual funds	_____	$_____	$_____
Money owed to us	_____	$_____	$_____
Life Insurance (cash value)	_____	$_____	$_____
Pension plans	_____	$_____	$_____
Business assets	_____	$_____	$_____
Other *(specify)*	_____	$_____	$_____
TOTAL		$_____	$_____

Add up amounts in each column and fill in totals.

PART 4 – DEBTS AND OTHER LIABILITIES OF BOTH PARTIES

You don't need to complete Part 4 of the Financial Statement if:
- the only child support amount claimed is the table amount from the Child Support Guidelines
- the children for whom support is sought are all under the age of 18 years
- there are no other issues of support or property raised in your Notice of Motion to Vary
- your income information is necessary to decide the amount of the new Child Support Order

7. Our debts and liabilities are as follows:

(List all your debts and liabilities as well as any joint debts and liabilities. Identify joint liabilities with an asterisk (*). Do not complete the column headed "Amount Outstanding at Date of Separation" if there is no claim under The Ma·ital Property Act.)

In this column, fill in P or R or * to show whose debt is listed.

List amount owing for each debt.

Leave blank if you are divorced or were never married to the other parent.

Fill in amounts of monthly debt payments.

	Debt of Petitioner (P) or Respondent (R) or Joint (*)	Present Amount Outstanding	Amount Outstanding at Date of Separation	Present Monthly Payments
Mortgage	_____	$_____	$_____	$_____
Loans *(specify)*	_____	$_____	$_____	$_____
	_____	$_____	$_____	$_____
	_____	$_____	$_____	$_____
Credit cards	_____	$_____	$_____	$_____
	_____	$_____	$_____	$_____
	_____	$_____	$_____	$_____
Other *(specify)*	_____	$_____	$_____	$_____
	_____	$_____	$_____	$_____
	_____	$_____	$_____	$_____
TOTAL		$_____	$_____	$_____

Add up amounts in each column and fill in totals.

8. Notice of Motion to Vary – Form 70H

Use File Number from most recent Court documents.

File No. FD _____

Fill in city or town of Court, from most recent Court documents or new centre if file has been transferred.

THE QUEEN'S BENCH (FAMILY DIVISION)

_____ CENTRE

BETWEEN:

Full name of Petitioner, as on most recent Court documents.

(full name),

petitioner,

– and –

Full name of Respondent, as on most recent Court documents.

(full name),

respondent.

Name of Document.
Attach a Cover Page in Queen's Bench Form 4C.

Fill in petitioner or respondent, and full name and address.

NOTICE OF MOTION TO VARY

TO THE PETITIONER/RESPONDENT: ***(full name and address including postal code)***

Fill in petitioner or respondent (whoever is filing the motion.)

THE _____

Fill in day of week, date and time of hearing.

WILL MAKE A MOTION before a judge on _____, the _____ day of _____, _____, at _____ or as soon after that time as the motion can be heard, at _____.

Fill in address of court.

Name the kind of order you want to vary, for example, child support or custody.

THE MOTION IS FOR AN ORDER VARYING:

Fill in name of judge and court that made the Order you want to vary, and also the date of that Order.

The _____

order granted by _____ of _____,
(judge) *(court)*

of _____ pronounced on the _____ day of _____, _____.
(province)

(List any other orders which the moving party is asking to vary and any other orders asked for, including costs, if you want the other parent to pay all or part of your court costs.)

The details of the variation the moving party is requesting are found on the attached page.

(If this Motion is for an order varying or deleting a support order, add:)

Include this paragraph only if it applies to your motion.

You or a Manitoba lawyer acting for you must serve and file in the court office an affidavit and a financial statement in accordance with Rule 70.37 and Form 70D of the *Queen's Bench Rules* within 20 days of your receiving this Motion.

(If this Motion is for an order varying a child support order under* the *Divorce Act (Canada), add both of the following paragraphs:)

Include this paragraph only if it applies to your motion.

If either the moving party or you live outside Manitoba, you must also serve and file in the court office an affidavit containing the documents required by section 21 of the *Federal Child Support Guidelines* within 20 days of receiving this motion.

NOTE that if:

- you are the person who is receiving or will be paid child support under the order the moving party is asking to vary; and
- there are no other support or property issues; and
- you are asking only for a table amount of support under the child support guidelines; and
- all the children for whom you want support are under the age of majority; and
- the moving party has not raised any issues requiring the production of your income information under the child support guidelines;

you do not need to file and serve at this time a financial statement nor an affidavit containing the documents required by section 21 of the *Federal Child Support Guidelines.*

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE MOTION, you or a Manitoba lawyer acting for you must serve a copy of the evidence on the moving party's lawyer or, where the moving party does not have a lawyer, serve it on the moving party, and file it in the court office where the motion is to be heard as soon as possible, but not later than 2:00 p.m. on a day that is at least seven days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, AN ORDER MAY BE MADE IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

DETAILS OF THE REQUESTED VARIATION

1.

2.

Set out in separate, numbered paragraphs the details of your request for a variation. Where your motion requests a variation of child support, say whether the claim is for an amount of support in the applicable table in the child support guidelines, an amount for special or extraordinary expenses, or a different amount.)

FINANCIAL INFORMATION

(Attached is the petitioner's financial statement (Form 70D).)

Include this paragraph only if it applies to you.

Note: The moving party does not need to attach a financial statement nor an affidavit containing the documents required by section 21 of the Federal Child Support Guidelines, if:

a) the moving party is not asking for a variation of a child support, spousal support, or property order; or

b) the moving party is asking for a variation of child support, and

- *child support is the only support or property issue in dispute in the motion, and*
- *the moving party is being paid, or asking to be paid, child support by the responding party, and*
- *the moving party is not, and would not be, paying child support under the order to be varied, and*
- *the moving party is asking only for a table amount of child support under the child support guidelines, and*
- *all the children for whom the moving party wants support are under the age of majority.*

Attached is the moving party's affidavit containing the documents required under section 21 of the *Federal Child Support Guidelines.*

Include this paragraph only if your Motion requests a variation of child support under the *Divorce Act (Canada)* and either you or the responding party lives outside Manitoba.

EVIDENCE TO BE USED AT THE HEARING

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion:

Affidavit of *(name of deponent)*, sworn/affirmed *(date affidavit is sworn)*

Affidavit of *(name of deponent)*, sworn/affirmed *(date affidavit is sworn)*

List each affidavit that is filed to support this Motion like this, including the name of the deponent and the date the affidavit is sworn or affirmed.

(Signature of lawyer)

(Name of lawyer)
(Firm name)
(Address)
(Phone)
(Fax)
(E-mail)

If you don't have a lawyer, sign your name and fill in your name, address, phone, fax and email.

9. Variation Order – Form 70N

File No. FD _____

Fill in city or town of Court where hearing took place or will take place.

THE QUEEN'S BENCH (FAMILY DIVISION)

_____ CENTRE

Fill in day of week and date of hearing. If filed before a hearing, leave blank space.

The Honourable

Justice _____ _____

Fill in last name of judge, if filed after a hearing
If filed before a hearing (as in an Order made by consent), leave blank space.

BETWEEN:

Full name of Petitioner, as on most recent Court documents.

(full name),

petitioner,

– and –

Full name of Respondent, as on most recent Court documents.

(full name),

respondent.

Name of Document. Attach a Cover Page in *Court of Queen's Bench* Form 4C.

VARIATION ORDER

Automated Court Order Clause AA-1 – Date and Place of Hearing.

1.0 This matter having proceeded at {specify Queen's Bench Court Complex and address in full including postal code} (at the request of /blank) {specify at whose request and/or hearing date}

Automated Court Order Clause AC-1 – Request to Vary.

2.0 This matter being a request for variation of the {specify name of old Order} pronounced {specify date} by {specify judge}; {which has been subsequently varied by the {specify name of old Order} pronounced {specify date} by {specify judge}; {and by the {specify name of old Order} pronounced {specify date} by {specify judge};}

Automated Court Order Clause AE-1. Add sub-clauses needed to identify who is present at hearing.

3.0 In the presence of: {specify the appropriate AE-1 sub-clause(s)}

Automated Court Order Clauses AE-1.1, AE-1.2, AE-1.3.

3.1. [specify Party Name], acting on (his/her) own behalf;

3.2. [specify Party Name] (by teleconference/by video/blank);

3.3. {specify Lawyer}, (by teleconference,/by video,/blank) counsel for [specify Party Name];

Automated Court Order Clause AE-2 – Use only if party does not appear at hearing.

4.0 [Specify Party Name] not appearing although served;

Automated Court Order Clause AG-1, Documents/ Evidence. Add sub-clauses to list all Affidavits and documents filed for hearing.

5.0 The following (documents/evidence/documents and evidence) (having been filed/being relied on) in support of this application: {specify the appropriate AG-1 sub-clause(s)}

5.1. the Affidavit of Service on [specify Party Name];

5.2. the Affidavit of [specify Party Name], (sworn/affirmed) {specify date};

5.3. the Affidavit of {specify Name}, (sworn/affirmed) {specify date};

6.0 Upon considering the {specify pleadings, material filed, evidence presented and/or submissions made} in this matter;

Automated Court Order Clause AH-1, Consent. Use only if Order is Consent Interim Order or Consent Variation Order.

7.0 {Specify the name(s) of person(s) consenting} having consented to the content of {specify paragraph(s) number(s) if only part of the Order is consented to} (of/blank) this Order;

Use 1 of: Orders or Determines or Declares.

8.0 THIS COURT (ORDERS/DETERMINES/DECLARES) pursuant to the *Divorce Act* that:

Automated Court Order Clause BA-1 or BA-2, Headings, Name of Statute. Use only the appropriate clause.

or

THIS COURT (ORDERS/DETERMINES/DECLARES) pursuant to *The Family Maintenance Act* that:

This will remain a non-standard clause until addressed by the Automated Court Order Clause Committee and is the only clause exempt from an Explanatory Note.

8.1 The Order pronounced [Date] by {specify judge} is varied by: {specify variation details as required}

8.2 A copy of (this Order/blank) {and/or specify document(s) and its/their appropriate date(s)} shall be served on [specify Party Name] by (fax/pre-paid ordinary mail/pre-paid confirmed service delivery) addressed to [specify Party Name] {specify additional details and/or address in full}, (immediately/within 10 days of the date of signing/within 20 days of the date of signing/blank) {specify if different instructions by the Court};

Automated Court Order Clause VA-2, Personal Service.

Allow space for date and signature of judge.

_____ _____
(date) *(judge)*

CONSENTED AS TO FORM (AND CONTENT, *if applicable*)
(name of law firm, if applicable)

Where all or part of the Order is made by agreement, with consent of both Petitioner and Respondent, add space for each party to sign and show consent. If used and signed by party without a lawyer, must sign in presence of a witness. Then, must also include and attach Affidavit of Execution, sworn by witness.

PER:_____
(Acting on his/her own behalf, *(if applicable, affidavit of execution must be attached)*

Lawyer of record for (Petitioner/Applicant) is:
(Name)
(Firm Name)
(Address)
(Phone)
(Fax)
(E-mail)
(Firm File Number)

Lawyer of record for Respondent is:
(Name)
(Firm Name)
(Address)
(Phone)
(Fax)
(E-mail)
(Firm File Number)

10.(a) Affidavit of Execution (by Petitioner)

AFFIDAVIT OF EXECUTION

Fill in full name of witness.

Fill in City/Town and name of city/town.

I, _____ of the _____ of _____, in the Province of Manitoba,

MAKE OATH AND SAY THAT:

Fill in full name of Petitioner.

1. I was personally present and did see _____, the Petitioner, duly execute the attached Variation Order.

Fill in full name of Petitioner.

2. I know the said _____, and am satisfied that he/she is the full age of 18 years.

Cross out he or she and initial.

City or Town.

3. The said Variation Order was executed at the _____ of _____, in the Province of Manitoba, and I am a subscribing witness thereto.

Name of city or town.

SWORN/AFFIRMED before me)
in the _____ of)
_____, in the)
Province of _____,)
on _____, 20___.)

_____
(Name of deponent)

_____)
Commissioner for Oaths)
(or as may be)

Strike out words as necessary.
Fill in name of place where document is sworn or affirmed, name of province and date that document is sworn or affirmed.

10.(b) Affidavit of Execution (by Respondent)

AFFIDAVIT OF EXECUTION

Fill in full name of witness.

Fill in City/Town and name of city/town.

I, _____ of the _____ of _____,
in the Province of Manitoba,

MAKE OATH AND SAY THAT:

Fill in full name of Respondent.

1. I was personally present and did see _____, the Respondent, duly execute the attached Variation Order.

Fill in full name of Respondent.

2. I know the said _____, and am satisfied that he/she is the full age of 18 years.

Cross out he or she and initial.

City or Town.

3. The said Variation Order was executed at the _____ of _____, in the Province of Manitoba, and I am a subscribing witness thereto.

Name of city or town.

SWORN/AFFIRMED before me)
in the _____ of)
_____, in the)
Province of _____,)
on _____, 20___.)

_____
(Name of deponent)

_____)
Commissioner for Oaths)
(or as may be)

Strike out words as necessary.
Fill in name of place where document is sworn or affirmed, name of province and date that document is sworn or affirmed.

11. Interim Order – Form 70N

File No. FD _____

Fill in city or town of Court where hearing took place or will take place.

THE QUEEN'S BENCH (FAMILY DIVISION)

_____ CENTRE

Fill in day of week and date of hearing. If filed before a hearing, leave blank space.

The Honourable

Justice _____ _____

Fill in last name of judge, if filed after a hearing. If filed before a hearing (as in a Consent Variation Order), leave blank space.

BETWEEN:

Full name of Petitioner, as on most recent Court documents.

(full name),

petitioner,

– and –

Full name of Respondent, as on most recent Court documents.

(full name),

respondent.

Name of Document. Attach a Cover Page in *Court of Queen's Bench* Form 4C.

INTERIM ORDER

Automated Court Order Clause AA-1 – Date and Place of Hearing.

1.0 This matter having proceeded at [specify Queen's Bench Court Complex and address in full including postal code] (at the request of /blank) [specify at whose request and/or hearing date]

Automated Court Order Clause AE-1. Add sub-clauses needed to identify who is present at hearing.

2.0 In the presence of: [specify the appropriate AE-1 sub-clause(s)]

Automated Court Order Clauses AE-1.1, AE-1.2.

2.1 [specify Party Name], acting on (his/her) own behalf;

2.2 [specify Party Name] (by teleconference/by video/blank);

Automated Court Order Clause AG-1, Documents/ Evidence. Add sub-clauses to list all Affidavits and documents filed for hearing.

3.0 The following (documents/evidence/documents and evidence) (having been filed/being relied on) in support of this application: {specify the appropriate AG-1 sub-clause(s)}

3.1 the Affidavit of {specify Party Name}, (sworn/affirmed) {specify date};

3.2 the Affidavit of {specify Name}, (sworn/affirmed) {specify date};

4.0 Upon considering the {specify pleadings, material filed, evidence presented and/or submissions made} in this matter;

5.0 THIS COURT (ORDERS/DETERMINES/DECLARES) pursuant to the *Divorce Act* that:

Use 1 of: Orders or Determines or Declares.

Automated Court Order Clause BA-1 or BA-2, Headings, Name of Statute. Use only the appropriate clause.

THIS COURT (ORDERS/DETERMINES/DECLARES) pursuant to *The Family Maintenance Act* that:

Automated Court Order Clause CA-1, Notice. Used only if Motion is heard without notice to other party.

5.1 This matter proceed without notice;

Automated Court Order Clauses QE-1 and QE-2, Enforcement of Support and/or Arrears.

5.2 Enforcement of {the ongoing support obligation in the amount of {specify $ amount} per month (and/blank) the arrears of support in the amount of {specify $ amount} per month} as set out in the Order pronounced {specify date} by {specify judge} is suspended until {specify event or condition};

5.3 Enforcement of {the ongoing support obligation in the amount of {specify $ amount} per month (and/blank) the arrears of support in the amount of {specify $ amount} per month} as set out in the Order pronounced {specify date} by {specify judge} is restricted to an amount no greater than {specify amount} per month until {specify event or condition};

Automated Court Order Clause MA-1, Production of Documents.

5.4 {Specify Party Name} shall provide to {{specify Party Name}, lawyer for {specify Party Name} or third party name} {and file with the Court/blank) in a sworn Affidavit {specify period of time from service of the Order or a date} the following information: {specify the appropriate clauses MB through MJ}

Clause MB-1, Financial Statement.

5.4.1 a sworn Financial Statement in Form 70D of the *Court of Queen's Bench Rules*;

5.4.2 Canada Customs and Revenue Agency income and deduction computer printout(s) for the taxation year(s) {specify year(s)};

Clauses MC-1, MC-2, MC-3, MC-4, Tax Information.

5.4.3 personal income tax return(s) filed by (him/her) for the taxation year(s) {specify year(s)};

5.4.4 notice(s) of assessment or re-assessment issued to (him/her) for the taxation year(s) {specify year(s)};

5.4.5 income tax information slip(s) for the taxation year(s) {specify year(s)};

Clauses MD-1, MD-2 Employee Information.

5.4.6 three recent consecutive pay statements;

5.4.7 the most recent statement of earnings indicating the total earnings paid in the year to date, including overtime or, where such a statement is not provided by (his/her) employer, a letter from (his/her) employer setting out that information including (his/her) rate of annual salary or remuneration;

Clauses ME-1, ME-2 Self-Employed Information.

5.4.8 the financial statement(s) of (his/her) business or professional practice for the taxation year(s) {specify year(s)};

5.4.9 a statement showing a breakdown of all salaries, wages, management fees or other payments or benefits paid to, or on behalf of, persons or corporations with whom (he/she) does not deal at arm's length;

Clause MF-1, Partnership Information.

5.4.10 confirmation of (his/her) income and draw from, and capital in {specify name of partnership} for the taxation year(s) {specify year(s)};

Clauses MG-1, MG-2, Control of a Corporation.

5.4.11 the financial statement(s) of the {specify corporation} and its subsidiaries for the taxation year(s) {specify year(s)};

5.4.12 a statement showing a breakdown of all salaries, wages, management fees or other payments or benefits paid to, or on behalf of, persons or corporations with whom {specify corporation}, and every related corporation, does not deal at arm's length for the taxation year(s) {specify year(s)};

Clause MH-1, Beneficiary Under a Trust.

5.4.13 a copy of the trust settlement agreement of {specify settlor} and copies of the trust's three most recent financial statements;

Clause MI-1, Unemployed Information.

5.4.14 three recent consecutive Employment Insurance statements;

Clause MJ-1, General.

5.4.15 {specify as required or instructed by the Court};

5.5 {Specify name}, {the employer/the partner} of {specify Party Name}, shall provide to {specify Party Name}, lawyer for {specify Party Name} or third party name} the following information:

Clause MK-1, Employer/ Partner to Provide Information.

5.5.1 {specify financial information to be provided};

Clause TD-1, Without Notice Order – Effective Date and Service.

5.6 This Order remains in effect until {specify date and time} and shall be adjourned to {the Family Motions List on} {specify date and time}. [Specify Party Name] shall serve a copy of this Order, the originating Petition if not previously served, the Notice of Motion and all Affidavits filed in support of this Order, together with a new Notice of Motion specifying the date of the hearing at which {specify Party Name} may appear and the relief that will be sought at that time;

Automated Court Order Clause VA-2, Personal Service.

5.7 A copy of (this Order/blank) {and/or specify document(s) and its/their appropriate date(s)} shall be served on [specify Party Name] by (fax/pre-paid ordinary mail/pre-paid confirmed service delivery) addressed to [specify Party Name] {specify additional details and/or address in full}, (immediately/within 10 days of the date of signing/within 20 days of the date of signing/blank) {specify if different instructions by the Court}

Allow space for date and signature of judge.

DATED _____ (Judge) _____

CONSENTED AS TO FORM (AND CONTENT, if applicable)
(name of law firm, if applicable)

Where all or part of the Order is made by agreement, with consent of both Petitioner and Respondent, add space for each party to sign and show consent. If used and signed by party without a lawyer, must sign in presence of a witness. Then, must also include and attach Affidavit of Execution, sworn by witness.

PER: _____
(Acting on his/her own behalf, *(if applicable, affidavit of execution must be attached)*

Lawyer of record for (Petitioner/Applicant) is:
(Name)
(Firm Name)
(Address)
(Phone)
(Fax)
(E-mail)
(Firm File Number)

Lawyer of record for Respondent is:
(Name)
(Firm Name)
(Address)
(Phone)
(Fax)
(E-mail)
(Firm File Number)

12. Notice of Motion – Form 70Q

Use File Number from most recent Court documents.

File No. FD _____

Fill in city or town of Court, from most recent Court documents or new centre if File has been transferred.

THE QUEEN'S BENCH (FAMILY DIVISION)

_____ CENTRE

BETWEEN:

Full name of Petitioner, as on most recent Court documents.

(full name),

petitioner,

– and –

Full name of Respondent, as on most recent Court documents.

(full name),

respondent.

Name of Document.
If Motion is without notice, add: (WITHOUT NOTICE).
Attach a Cover Page in Queen's Bench Form 4C.

NOTICE OF MOTION

Fill in Petitioner or Respondent.

THE _____ will make a Motion before the presiding judge

Fill in name of Judge or Master if known.

(or master) _____ on the _____ day of _____, _____ at _____, or as soon after that time as the Motion can be heard, at _____.

Fill in time of hearing, including a.m. or p.m.

Fill in address of Court.

THE MOTION IS FOR:

1. An order that
2. An order that

List the Orders that you are asking for in a series of numbered paragraphs. Each separate request should be listed in a separate paragraph.
Remember that the Court can only make an Order if you ask for it. If you want the other parent to pay all or part of your court costs, ask for Costs here.

THE GROUNDS FOR THE MOTION ARE

1.
2.

List the legal grounds, or reasons for the Orders asked for.
List Statutes and Rules that you are relying on. Each separate ground should be listed in a separate paragraph.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion:

1. Affidavit of _____, sworn/affirmed _____
2. Affidavit of …

List each Affidavit that is filed to support this Motion. Include the name of the deponent and the date the Affidavit is sworn or affirmed.

Date: _____

Fill in date document is filed in Court.

_____
(Signature of lawyer)
(Name of Moving Party or Lawyer)
(Firm name)
(Address)
(Telephone Number)
(Fax)
(Email)

List everyone who must be served according to the *Court of Queen's Bench Rules*. Include name and address.

Moving Party is the person (Petitioner or Respondent) who makes this Motion.
Fill in name, address, telephone number, fax number and email address.

TO: (Name of Responding Party or Lawyer Address)

13. Motion Brief – Form 70R

Use File Number from most recent Court documents.

File No. FD _____

Fill in city or town of Court, from most recent Court documents or new centre if file has been transferred.

THE QUEEN'S BENCH (FAMILY DIVISION)

_____ CENTRE

BETWEEN:

(full name),

Full name of Petitioner, as on most recent Court documents.

petitioner,

– and –

(full name),

Full name of Respondent, as on most recent Court documents.

respondent.

Name of Document.
Attach a Cover Page in Queen's Bench Form 4C.

MOTION BRIEF

Fill in day of week, and date.

A MOTION BY _____ is set for hearing on _____, the _____ day of _____, for a period of _____.

Fill in length of hearing scheduled.

Mark boxes for issues to be decided at hearing.

1. The contested issues to be determined are:

[ ] Non-cohabitation
[ ] Parenting arrangements
  [ ] joint custody
    [ ] primary care and control
    [ ] periods of care and control
  [ ] sole custody
  [ ] access
  [ ] other *(specify)*: _____
[ ] Declaration of parentage
[ ] Child support
  [ ] table amount
  [ ] special or extraordinary expenses
  [ ] other amount
[ ] Spousal support
[ ] Division of marital property
  [ ] equal
  [ ] unequal
[ ] Exclusive occupation of family home
[ ] Partition or sale
[ ] Postponement of sale
[ ] Protective relief, including
  [ ] prohibition against following
  [ ] prohibition against contact/ communication
  [ ] prohibition against attendance
  [ ] driving suspension/disqualification (section 15(1) of *The Domestic Violence and Stalking Prevention, Protection and Compensation Act*)
  [ ] set aside protection order
  [ ] other *(specify)*: _____
[ ] Remission of Arrears
[ ] Financial disclosure
[ ] Costs
[ ] Other *(specify)*: _____

2. The following material is relevant to the issues and should be read in preparation for the hearing:

_____

_____

_____

_____

List documents that were filed to support or oppose the Motion. If referring to transcripts of cross-examinations, list particular questions and answers, including page and number.

3. Concise statement of facts.

If you want to, include a brief and clear statement of the facts of your case here.

In a separate paragraph for each issue checked on the first page, set out your position on that issue.

4. The position of the _____ on the contested issue(s) is:

Fill in whether you are the Petitioner or Respondent.

5.

❑ A specific point of law will be argued on this motion and I have attached the authorities on which I intend to rely. I have highlighted those portions of the authorities, which are relevant.

OR

❑ No specific point of law is intended to be argued and accordingly no authorities are attached.

Check box that applies to you. If you are relying on written reports of other cases, you have to attach a copy of each case and highlight (with a marker) the parts you think are important for the judge to read.

6.

❑ I have attached to this brief all required calculations including tax calculations where applicable.

Check box and attach calculations of child support amount, income amount, special expense amounts or undue hardship amounts.

7. I have attached all necessary calculations showing the payor's income situation during any period of time for which remission of arrears is sought; and
A copy of the motion to remit arrears was served on a Director of Field Services, Employment and Income Assistance or his or her authorized representative on _____.

If reducing or forgiving arrears is an issue, include this paragraph.

Fill in date of service.

8. The undersigned does not expect to file any additional material with regard to this motion.

(date)

_____
(Signature of lawyer)
(Name of lawyer)
(Firm name)
(Address)
(Phone)
(Fax)
(E-mail)

If you don't have a lawyer, sign your name and fill in your name, address, phone, fax and email.

TO: (other party's lawyer)
OR TO: (other party)

14. Case Management Information Statement – Form 70S

Use File Number from most recent Court documents.

File No. _____

THE QUEEN'S BENCH (FAMILY DIVISION)

WINNIPEG CENTRE

BETWEEN:

(full name), ← Full name of Petitioner, as on most recent Court documents.

petitioner,

– and –

(full name), ← Full name of Respondent, as on most recent Court documents.

respondent.

Complete this Form as a fill-in-the-blank document, using clear and easy to read printing or typing, or create your own following Queen's Bench Form 70S.

Attach a Cover Page in Queen's Bench Form 4C.

CASE MANAGEMENT INFORMATION STATEMENT

(filed by _____) ← Fill in Petitioner or Respondent

Petitioner/Applicant	**Respondent**
Current address: _____	Current address: _____
Phone No.: _____	Phone No.: _____
Lawyer: _____	Lawyer: _____
Address: _____	Address: _____
Phone No.: _____	Phone No.: _____
Fax No.: _____	Fax No.: _____

IF YOU HAVE COME TO AN AGREEMENT ON ALL ISSUES:

❑ Final Documentation ❑ Notice of Discontinuance ❑ Other

Fill in Petitioner or Respondent.

will be filed by _____

who has undertaken to do so, on or before _____ ← Fill in Date.

IF YOU HAVE NOT REACHED AN AGREEMENT ON ALL ISSUES:

1. Have any of the issues raised in the pleadings been settled?

❑ yes ❑ no

2. Which issues have been settled and how have they been settled?

_____

_____

_____

3. (a) Which issues raised in the pleadings have not been settled?

_____

_____

_____

3. (b) What is your position on these issues?

_____

_____

_____

Child Support

4. If child support is not resolved identify all children of the parties for whom support is claimed:

Add lines if needed, so all children are listed. →

Name	Birth date
Name	Birth date

5. Are any persons other than the parties to this action liable for the support of any of these children?

❑ yes ❑ no

If yes, explain: _____

_____

Fill in amounts based on the financial information you have, and following the Child Support Guidelines.

6. Income of Petitioner/Applicant for Child Support Guideline purposes is $_____.

7. Income of Respondent for Child Support Guideline purposes is $_____.

8. Are special or extraordinary expenses under s. 7 of the *Child Support Guidelines Regulation* claimed?

❑ yes ❑ no

If yes, identify special expense by category and amount: _____

_____

9. Identify any other issues in respect of child support determination.

_____

_____

Financial Disclosure

10. Has all requested financial disclosure been provided?

— by Petitioner/Applicant ❑ yes ❑ no

— by Respondent ❑ yes ❑ no

If no, what requested financial disclosure has not been provided? By whom and for what stated reason? _____

_____

Resolution Attempts

11. What if any attempts at resolving the outstanding issues have been undertaken to date?

	Date
❑ Negotiations of counsel	_____
❑ Meetings of counsel	_____
❑ Meetings of counsel and parties	_____
❑ Mediation	_____
❑ Other	_____

12. What further attempts at resolving the outstanding issues are currently scheduled?

	Date
❑ Negotiations of counsel	_____
❑ Meetings of counsel	_____
❑ Meetings of counsel and parties	_____
❑ Mediation	_____
❑ Other	_____

Urgent Issues

13. Do any of the issues that have not been resolved require the Court's attention on an urgent basis?

❑ yes ❑ no

If yes, which issues?_____

_____

Status of Litigation

14. Are the pleadings closed?

❑ yes ❑ no

Pleadings are the documents that start a family Court file, i.e. Petition, Answer, and Reply.

If no, what pleadings are required to be filed and by whom?_____

_____

When will this be done? _____

_____

15. Has document discovery been initiated?

❑ yes ❑ no

Document discovery is a process that can happen before a trial, but is not available on a Motion to Vary.

16. Has document discovery been completed?

❑ yes ❑ no

17. Will oral examinations be required?

❑ yes ❑ no

Oral Examinations includes Cross Examination on an Affidavit, under Court of Queen's Bench Rule 39.02.

If yes, when are they scheduled to proceed? _____

18. Will any expert reports/assessments be sought?

❑ yes ❑ no

If yes, when are these reports/assessments expected to be completed? _____

_____

What issues are examined in the reports/assessments?_____

_____

19. Have any interim proceedings been taken?

❑ yes ❑ no

If yes, by whom and for what relief? _____

_____

When will these outstanding interim proceedings be completed? _____

_____

20. Are any further interim proceedings contemplated or intended?

❑ yes ❑ no

If yes, by whom and for what relief?_____

_____

Other issues

21. What if any, other matters that should be considered at this case conference?

_____

_____

This Case Management Information Statement is filed by _____,

this _____ day of _____, 20____.

Fill in Petitioner or Respondent.

15. Request for Adjournment – Form 70T

Use File Number from most recent Court documents.

File No. FD _____

THE QUEEN'S BENCH (FAMILY DIVISION)

WINNIPEG CENTRE

BETWEEN:

(full name),

Full name of Petitioner, as on most recent Court documents.

petitioner,

– and –

(full name),

Full name of Respondent, as on most recent Court documents.

respondent.

Complete this Form as a fill-in-the-blank document, using clear and easy-to-read printing or typing, or create your own following Queen's Bench Form 70T.

Attach a Cover Page in Queen's Bench Form 4C.

REQUEST FOR ADJOURNMENT

By consent the parties agree to adjourn the case conference, which is presently scheduled for _____, until _____.

Fill in new time, day, date.

Fill in scheduled time, day, date.

This request for adjournment is being made at least 14 days before the date of the scheduled case conference.

The extenuating circumstances for the Request for Adjournment are (as attached) or (as follows):

Fill in reasons why you need to adjourn.

_____

_____

_____

_____

Fill in day, month, and year.

Dated this _____ day of _____, _____.

_____

Lawyer for the _____

Name of Lawyer (please print)

_____

Phone Number: _____

_____

FOR COURT USE ONLY:

Request for Adjournment ❑ **granted** ❑ **denied**

Dated this _____ **day of** _____, _____.

_____

J.

16. Enforcement Information – Form 70W

Use File Number from most recent Court documents.

FILE NO. FD _____

ENFORCEMENT INFORMATION

If you wish to have your order enforced by the Maintenance Enforcement Program, please verify or provide the following information:

Fill in name of payor of child support.

PERSON REQUIRED TO MAKE PAYMENTS: _____

Fill in details for payor of child support.

Address: _____ Date of Birth: _____

City, Province: _____ Social Insurance Number: _____

Country: _____ Treaty Status Number: _____

Postal Code: _____ Mother's Maiden Name: _____

Home Phone Number: _____ Work Phone Number: _____

Employment:

Occupation *(Trade, Profession, Union Member, etc.)*:

Current Employer: _____

Address: _____

City, Prov., Country: _____ Phone Number: _____

Postal Code: _____

FORM 70D

Check the box that applies.

- ❑ **Attached**
- ❑ **Filed with the Court and Copy attached**
- ❑ **Copy to be provided after filing with the Court**

Previous Employer: _____

Address: _____

City, Prov., Country: _____ Phone Number: _____

Postal Code: _____

More information about payor.

Name of person who receives child support.

PERSON ENTITLED TO RECEIVE PAYMENTS:_____

Fill in details of person who receives child support.

Address:_____ Date of Birth: _____

City, Province:_____ Social Insurance Number: _____

Country:_____ Treaty Status Number:_____

Postal Code:_____ Mother's Maiden Name: _____

Home Phone Number:_____ Work Phone Number: _____

CHILD(REN)

Name	Date of Birth	Address

Fill in name, birth date and address for each child that child support is supposed to be paid for.

17. Enforcement Opt-Out – Form 70X

Use File Number from most recent Court documents.

File No. FD _____

Fill in city or town of Court, from most recent Court documents or new centre if file has been transferred.

THE QUEEN'S BENCH (FAMILY DIVISION)

_____ CENTRE

BETWEEN:

Full name of Petitioner, as on most recent Court documents.

(full name),

petitioner,

– and –

Name of Document.
Attach a Cover Page in Queen's Bench Form 4C.

Full name of Respondent, as on most recent Court documents.

(full name),

respondent.

ENFORCEMENT OPT-OUT

Fill in date Child Support Order was made by judge.

I am the person entitled to receive payments of support as ordered on _____ *(date)*

by _____ *(judge)*.

Fill in name of judge that made the Child Support Order.

I do not choose to have my support order registered with the Maintenance Enforcement Program at this time. I understand that:

- *The Family Maintenance Act* of Manitoba provides for automatic monitoring and enforcement of support orders. If my case were in the program, the maintenance payments due to me would be sent through the court, and the Maintenance Enforcement Program would record and monitor the payments. If insufficient payment were made, the Maintenance Enforcement Program would automatically initiate enforcement actions on my behalf.
- By signing and submitting this form, I will not receive any assistance from the Maintenance Enforcement Program in monitoring and collecting my payments.
- I understand that payments will not be recorded or monitored through the Maintenance Enforcement Program.
- I may register with the Maintenance Enforcement Program in the future.

_____
(date)

_____
Recipient *(signature of recipient)*

Fill in date and sign your name, in front of a witness. Witness also signs.

_____
Witness *(signature of witness)*

18. Notice of Change of Name – Form 70AA

Use File Number from most recent Court documents.

File No. FD _____

Fill in city or town of Court, from most recent Court documents or new centre if file has been transferred.

THE QUEEN'S BENCH (FAMILY DIVISION)

_____ CENTRE

BETWEEN:

Full name of Petitioner, as on most recent Court documents.

(full name),

petitioner,

– and –

Name of Document.
Attach a Cover Page in Queen's Bench Form 4C.

Full name of Respondent, as on most recent Court documents.

(full name),

respondent.

NOTICE OF CHANGE OF NAME

1. Change name from : _____
to : _____

Check box that applies to you and explain as necessary.

2. Reason for change:

- ❑ marriage to: _____
  and taking of that surname
- ❑ divorce and return to maiden name as it was prior to marriage
- ❑ legal change of name
- ❑ other:

_____

If your address has changed since the last court process, fill in current address.

3. Address change: *(if applicable)* _____

Current date and your signature.

4. Date of notice: _____

I certify that the information contained in this notice is true and correct.

_____
(signature)

Don't fill in this area.

FOR COURT USE ONLY

NAME OF PERSON REQUESTING: _____

FORM OF IDENTIFICATION WITH PHOTO: _____

PROOF DOCUMENT PROVIDED: _____

(Note: No data will be updated without proper photo identification and the requestor must be a party to the action or counsel acting on their behalf.)

ACCEPTED BY DEPUTY REGISTRAR: _____

DATE REGISTRY UPDATED: _____

UPDATED BY: _____

(Note: No fee applied in the Family Division.)

PART D

Resources

Court Offices

Winnipeg Court Offices

Court of Appeal
100E-408 York Avenue
Winnipeg, Manitoba R3C 0P9
Telephone: (204) 945-2647
Fax: (204) 948-2072

Court of Queen's Bench
408 York Avenue
Winnipeg, Manitoba R3C 0P9

Case Management co-ordinator
Telephone: (204) 945-7853
Fax: (204) 945-5550

General (includes civil)
Telephone: (204) 945-3014
Fax: (204) 945-5550

Family Matters
Telephone: (204) 945-5383
Fax: (204) 945-5550

Family Motions co-ordinator
Telephone: (204) 945-4209
Fax: (204) 945-5550

St. Boniface
227 Provencher Boulevard
St. Boniface, Manitoba R2H 0G4
Telephone: (204) 945-8010
Fax: (204) 945-5562

Motions co-ordinator
Telephone: (204) 945-8010
Fax: (204) 945-5562

All Winnipeg and St. Boniface Court offices can be reached toll-free at 1-800-282-8069. (The extension number for a particular office is the last 4 digits of its phone number.)

Regional Court Offices

Brandon
Court of Queen's Bench
1104 Princess Avenue
Brandon, Manitoba R7A 0P9
Telephone: (204) 726-6240
Fax: (204) 726-6547

Motions co-ordinator
Telephone: (204) 726-6134
Fax: (204) 726-6547

Dauphin
Court of Queen's Bench and
Provincial Court
Court Office
114 River Avenue W.
Dauphin, Manitoba R7N 0J7
Telephone: (204) 622-2087
Fax: (204) 622-2099

Motions co-ordinator
Telephone: (204) 622-2183
Fax: (204) 622-2099

Flin Flon
Court of Queen's Bench and
Provincial Court
Court Office
104-143 Main Street
Flin Flon, Manitoba R8A 1K2
Telephone: (204) 687-1670
Fax: (204) 687-1673

Motions co-ordinator
Telephone: (204) 687-1672
Fax: (204) 687-1673

Minnedosa
Court of Queen's Bench and
Provincial Court
Court Office
70-3rd Avenue SW, Box 414
Minnedosa, Manitoba R0J 1E0
Telephone: (204) 867-2238
Fax: (204) 867-2440

Morden
Court of Queen's Bench and
Provincial Court
Court Office
301 Wardrop Street
Morden, Manitoba R6M 1X6
Telephone: (204) 822-2882
Fax: (204) 822-2883

Motions co-ordinator
Telephone: (204) 822-2880
Fax: (204) 822-2883

Portage la Prairie
Court of Queen's Bench
20-3rd Street SE
Portage la Prairie, Manitoba
R1N 1M9
Telephone: (204) 239-3431
Fax: (204) 239-3410

Motions co-ordinator
Telephone: (204) 239-3383
Fax: (204) 239-3410

Selkirk
Court of Queen's Bench and
Provincial Court
Court Office
101-235 Eaton Avenue
Selkirk, Manitoba R1A 0W7
Telephone: (204) 785-5078
Fax: (204) 785-5125

Motions co-ordinator
Telephone: (204) 785-5122
Fax: (204) 785-5125

Swan River
Court of Queen's Bench and
Provincial Court
Court Office
201-4th Avenue S., Box 206
Swan River, Manitoba R0L 1Z0
Telephone: (204) 734-2252
Fax: (204) 734-9544

The Pas
Court of Queen's Bench and
Provincial Court
Court Office
300-3rd Street E., Box 1259
The Pas, Manitoba R9A 1L2
Telephone: (204) 627-8420
Fax: (204) 623-6528

Motions co-ordinator
Telephone: (204) 627-8424
Fax: (204) 623-6528

Thompson
Court of Queen's Bench and
Provincial Court
Court Office
59 Elizabeth Drive, Box 34
Thompson, Manitoba R8N 1X4
Telephone: (204) 677-6757
Fax: (204) 677-6686

Motions co-ordinator
Telephone: (204) 677-6757
Fax: (204) 677-6686

Virden
Court of Queen's Bench and
Provincial Court
Court Office
232 Wellington Street W., Box 1478
Virden, Manitoba R0M 2C0
Telephone: (204) 748-1908
Fax: (204) 748-2980

Legal Aid Offices

Winnipeg Legal Aid Offices

Legal Aid Manitoba
Administrative and Winnipeg Area Office
402-294 Portage Avenue
Winnipeg, Manitoba R3C 0B9
Telephone: (204) 985-8500
Fax: (204) 944-8582
Toll-free: 1-800-261-2960

Aboriginal Centre Law Office
409-181 Higgins Avenue
Winnipeg, Manitoba R3B 3G1
Telephone: (204) 985-5230
Fax: (204) 985-5237
Toll-free: 1-800-300-2307

Child Protection Law Office
4th Floor - 294 Portage Avenue
Winnipeg, Manitoba R3C 0B9
Telephone: (204) 985-8566
Fax: (204) 985-5224
Toll-free: 1-800-766-2148

Family Law Centre
308-294 Portage Avenue
Winnipeg, Manitoba R3C 0B9
Telephone: (204) 985-5215
Fax: (204) 985-5222
Toll-free: 1-800-839-7946

Regional Legal Aid Offices

Westman Community Law Centre
(Brandon Area Office)
1239 Princess Avenue
Brandon, Manitoba R7A 0A2
Telephone: (204) 729-3484
Fax: (204) 726-1732
Toll-free: 1-800-876-7326

Parklands Community Law Centre
(Dauphin Area Office)
3-3rd Avenue
Dauphin, Manitoba R7N 0Y5
Telephone: (204) 622-7000
Fax: (204) 622-7029
Toll-free: 1-800-810-6977

Northland Community Law Centre
(The Pas/Thompson Area Office)
236 Edwards Avenue, P.O. Box 2429
The Pas, Manitoba R9A 1M2
Telephone: (204) 627-4820
Fax: (204) 627-4838
Toll-free: 1-800-268-9790

Thompson Community Law Centre
3 Station Road
Thompson, Manitoba R8N 0N3
Telephone: (204) 677-1211
Fax: (204) 677-1220
Toll-free: 1-800-665-0656

Child Support Guidelines Resources:

Federal Department of Justice

Telephone: For general information on child support or to receive copies of publications, call: 1-888-373-2222
web site: http://canada.justice.gc.ca

Law Phone-In and Lawyer Referral Service

Telephone: (204) 943-2305
Toll-free: 1-800-262-8800
Fax: (204) 943-3600
web site: www.acjnet.org/white/clea

Manitoba Justice Family Law Branch

705-405 Broadway
Winnipeg, Manitoba R3C 3L6
Telephone: (204) 945-0268
Toll-free: 1-800-282-8069 (Ext. 0268)
Fax: (204) 948-2004
web site: www.gov.mb.ca/justice/family/familyindex.html

Manitoba Courts

web site: www.manitobacourts.mb.ca

Manitoba Laws

web site: www.gov.mb.ca/laws

Manitoba Statutory Publications

Statutory Publications
200 Vaughan Street
Winnipeg, Manitoba R3C 1T5
Telephone: (204) 945-3101
Toll-free: 1-800-321-1203
Fax: 945-7172
web site: www.gov.mb.ca/chc/statpub/free/index.html

Family Conciliation, Family Services and Housing

14th floor – 405 Broadway
Winnipeg, Manitoba R3C 3L6
Telephone: (204) 945-7236
Fax: (204) 948-2142
web site: www.gov.mb.ca/fs/programs/cfs/fs0cfs06.html

Community Legal Education Association

501-294 Portage Avenue
Winnipeg, Manitoba R3C 0B9
Telephone: (204) 943-2382
Fax: (204) 943-2600
web site: www.acjnet.org/white/clea

Maintenance Enforcement Program:

Head Office

225-405 Broadway
Winnipeg, Manitoba R3C 3L6
Telephone: (204) 945-7133
Toll-free: 1-800-282-8069
web site: www.gov.mb.ca/justice/family/familyindex.html

Brandon Office

Court House
1104 Princess Avenue
Brandon, Manitoba R7A 0P9
Telephone: (204) 726-6505
Fax: (204) 726-6546
Toll-free: 1-866-219-9151

Thompson Office

Court House
59 Elizabeth Drive
Thompson, Manitoba R8N 1X4
Telephone: (204) 677-6758
Fax: (204) 677-0655
Toll-free: 1-866-804-5830

Glossary

Acknowledgement of Service	A Court document that is used to prove that another document was served.
Adjourn	To postpone a Court hearing and set a new date.
Affidavit	A Court document that contains written facts that the maker swears to be true.
Affidavit of Execution	A document that contains written facts that the maker swears to be true, and is used to prove that a person signed a document freely and willingly.
Affidavit of Service	A Court document that contains written facts that the maker swears to be true, and is used to prove that another document was served.
Arrears	The amount of child support owing when a paying parent falls behind in making child support payments.
Automated Court Order Standard Clauses	The wording that you must use in preparing a Court Order.
Case conference	A meeting with both parents, their lawyers and a judge to try to solve the problems or issues in the case.
Case management	A Court process that allows a judge to monitor and manage the progress of a Family Court case.
Case Management Information Statement	A Court document that provides information about the issues in the case to the judge.
Child support amount	The amount of child support that equals the table amount plus any special expenses.
Child Support Guidelines	Rules that the Court must follow to decide how much child support should be paid.
Child Support Tables	Tables for each province and territory that set out the basic amounts of child support to pay, based on the annual income of the paying parent and the number of children who support is paid for.
Contested hearing	A hearing that takes place when both parents don't agree to what one or both are asking the Court to do.
Costs	Legal costs, whether actual amount of costs or an amount decided following the *Court of Queen's Bench Rules.*

Deponent	Person who gives evidence to the Court by signing and swearing an Affidavit.
Enforcement Information	A Court document that gives the Maintenance Enforcement Program information about the paying parent, the parent who receives support and the children who support is paid for.
Enforcement Opt-out	A Court document that tells the Maintenance Enforcement Program that a parent receiving support doesn't want the payments enforced by the Maintenance Enforcement Program.
Exhibit	A document that is attached to an Affidavit, as evidence, and is marked as an exhibit and signed by the witness to the Affidavit.
Filing documents	Adding documents to a Court file by giving a copy to the Registrar or Deputy Registrar at the Court office. Sometimes requires payment of a filing fee or charge.
Final Order or Judgment	A Court Order that ends a family court process.
Financial Statement	A Court document that sets out a person's financial information in a detailed and specific way. Often called Form 70D.
Lawyer of record	The lawyer that represented you in Court in the last Court proceeding, according to the Court file.
Master	An officer of the Court of Queen's Bench in Manitoba who makes Court Orders about Court processes and other Orders as set out in the *Court of Queen's Bench Rules.*
Motion Brief	A Court document that describes the issues that have to be decided by the judge in a contested hearing and lists the evidence used in the hearing.
Notice of Change of Name	A Court document that lets the Court and the other parent know that you have changed your name since the last Court process.
Notice of Intention to Act in Person	A Court document that lets the Court and the other parent know that you are representing yourself.
Notice of Motion	A Court document that asks for short term Court Orders.
Notice of Motion to Vary	A Court document that asks to change a Final Order or Judgment made in Family Court.

Personal service — A way of serving documents to a person by giving a copy to the person.

Preamble — The first part of a Court Order that sets out the details of where and when a Court Order was made, who was there and who wasn't.

Remit arrears — To reduce the amount of arrears of child support, or to forgive a part of the arrears.

Request for Adjournment — A Court document that asks to adjourn a case conference.

Requisition — A Court document that asks the Court Registrar to do something under the *Court of Queen's Bench Rules.*

Serving documents — Delivering Court documents to another person, using a specific method following the *Court of Queen's Bench Rules.*

Shared custody — Each parent has custody or primary care of a child at least 40% of the time each year.

Special expenses — Also called extraordinary expenses. These are certain kinds of extra costs for a child that fit into the following categories:

1. child care expenses
2. health-related expenses above any insurance coverage
3. extraordinary expenses for primary or secondary school or other educational programs that the child needs
4. post-secondary education programs
5. extraordinary expenses for extracurricular activities

Split custody — Each parent has custody or primary care of one or more of their children together.

Suspend enforcement — Put Maintenance Enforcement proceedings on hold, usually for a specific period of time.

Table amount — Amount of child support that equals the amount calculated using only the Child Support Tables.

Tariff — A schedule that sets out the amount of costs for different kinds of Court processes, found in the *Court of Queen's Bench Rules.*

Teleconference	A way to attend a hearing in Court by telephone, not in person.
Uncontested hearing	A hearing in Court that takes place and no one opposes, or disagrees with what is asked for.
Undue hardship	When a Court decides that it would cause too much difficulty to either parent to require the paying parent to pay the table amount plus special expenses. The hardship can be for either parent.
Variation Order	A Court Order that changes a Final Order or Judgment made in Family Court.